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ABSTRACT

State profiles of youth in adult courts were compiled for each of the 50 states, the District of Columbia, and the Federal District Courts. This volume contains profiles for the Western states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. The first part of each state profile describes the process by which youths are referred to adult courts and what can happen to them after conviction. Included in this part are descriptions of (1) the court organization, (2) the pertinent statutory provisions in the state code, (3) the relevant cases tried in the state supreme court and the federal courts since 1950, and (4) the correctional placement options for juveniles convicted in adult courts. This information was obtained through a search of the statutes and case law and through telephone interviews with court and correctional officials. The second part of the profile presents data collected from every county in the state on the frequency of referral of youths to adult courts through each of the mechanisms permitted by state law. In addition, demographic information, offense characteristics, and the judgments and sentences received by these youths are described for the most populous counties and for those counties referring five or more juveniles to adult courts in 1978. (KC)

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MAJOR ISSUES IN JUVENILE JUSTICE INFORMATION AND TRAINING

Youth in Adult Courts: Between Two Worlds
West Region

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PROFILE VOLUME

INTRODUCTION

State profiles on youth in adult courts were compiled for each of the 50 states, the District of Columbia, and the federal District Courts. For purposes of this study, juveniles were defined as persons under 18 years of age.

There are four mechanisms by which juveniles are referred to adult court for trial:

- Judicial waiver
- Concurrent jurisdiction
- Excluded offenses
- Maximum age of initial jurisdiction below age 18

The first part of each profile describes the process by which youths are referred to adult courts and what can happen to them after conviction. Included in this part are descriptions of (1) the court organization, (2) the pertinent statutory provisions in the state code, (3) the relevant cases tried in the state supreme court and the federal courts since 1950, and (4) the correctional placement options for juveniles convicted in adult courts. This information was generally obtained through a search of the statutes and case law, and telephone interviews with court and correctional officials.

The second part of the profile presents data collected from every county in the United States on the frequency of referral of youths to adult courts, for each of the mechanisms permitted by state law. In addition, demographic and offense characteristics and the judgments and sentences received by these youths are described for at least the ten percent most populous counties and counties referring five or more juveniles to adult courts in 1978.

The survey data were collected in several different ways. (The individual state profiles detail the survey process in each state.) First, in a few states, frequency of referrals by counties were available from a state agency. Second, in 22 states, private consulting companies, advocacy organizations, and volunteer groups collected the data through telephone interviews on behalf of the Academy. In half of the states, Academy personnel conducted telephone interviews. In the latter two instances, personnel from the courts and prosecutors' offices were generally the interviewees. (For more detail on the research strategies, please refer to the methodology chapter in Appendix A.)

ALASKA PROFILE

ACKNOWLEDGMENTS

The Academy thanks Barbara A. Howe, Clerk of Court, Trial Courts, State of Alaska, for providing data on lesser, excluded offenses. Also acknowledged are Stephanie Cole, Director, Legal Education and Information, Alaska Court System, and Charles G. Adams, Jr., Executive Director, Alaska Criminal Justice Planning Agency, for reviewing the material in the Alaska profile. In addition, the Academy expresses its appreciation to the many other state and local officials who provided additional information necessary to the study.

METHODOLOGY

The data on judicial waivers were gathered by telephone interviews conducted by members of the Academy staff. These interviews were held with intake officers and clerks of court attached to the Alaska superior courts. The geographic unit of analysis for this state was the judicial district and not the county, due to complicated overlays of cities, boroughs, and municipalities. Therefore, the most complete data were available from the more encompassing entity, the judicial district.

Phase I data on the number of juveniles transferred to adult courts for trial during 1978 were sought from all four judicial districts. Phase II data on age, sex, race, offenses, dispositions, and sentences of youth judicially transferred to criminal courts were sought from the most populous ten percent of the judicial districts (in Alaska, one judicial district). However, Judicial District II, the Phase II district, had no referrals during 1978. Therefore, no Phase II data were collected in Alaska. The number of juvenile traffic and conservation violations handled in adult courts in each judicial district were also supplied by the Clerk of Courts, Trial Courts.

COURT ORGANIZATION

In Alaska, there are four judicial districts which cover the state's 11 local governments. Each district has a superior court and a district court. The former are the highest courts of general jurisdiction, exercising authority in all civil and criminal cases. District courts have limited jurisdiction and may be presided over by district court judges or magistrates.

The juvenile session of Superior Courts have jurisdiction over most proceedings involving individuals under the age of 18. Hereafter these sessions will be referred to as juvenile courts.

In addition to exercising authority over preliminary hearings in felony matters and over misdemeanors and violations of municipal ordinances, the district courts have original jurisdiction over all traffic, fish and game, and parks and recreation violations charged against juveniles and adults.[1]

An overview of Alaska's courts by their jurisdiction over juveniles appears below.

ALASKA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Session of Superior Courts	Adult Criminal Session of Superior Courts	District Courts[a]

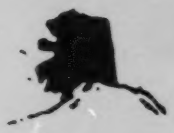
a. Juveniles charged with traffic, fish and game, and parks and recreation offenses are handled in the same manner as adults charged with the same offenses.

TRANSFER PROCESS

The initial juvenile court jurisdiction in Alaska extends to 18 years of age. Persons under the age of 18 may be tried as adults in two different ways.[2]

Judicial Waiver

Jurisdiction over juveniles charged with any offense within the juvenile sessions' jurisdiction may be waived to the adult criminal sessions of superior courts, following a waiver hearing.[3] If the court finds at the hearing that there is probable cause for believing that the minor has committed the act, is not amenable to treatment prior to attaining 21 years of age, the court will order the juvenile session case closed. In determining whether a minor is



unamenable to treatment, the court may consider the seriousness of the offense, the minor's history of delinquency, the probable cause of the delinquent behavior, and the facilities available to the state division of youth and adult authority for treating minors. (The Alaska Supreme Court has specified that certain factors must be considered, see Case Law Section.)

Upon a finding of probable cause and unamenability in the juvenile court, youth may then be prosecuted in the adult session of superior courts. State law does not specify who may initiate the waiver procedure; however, in practice, district attorneys initiate the proceedings.[4]

Excluded Offenses

The second way persons under 18 years of age are tried as adults in Alaska is that they are charged with nonfelonious traffic, fish and game, and parks and recreation violations. These youth are automatically tried in district courts and are charged, prosecuted, and sentenced in the same manner as adults charged with the same offenses.[5]

CASE LAW SUMMARY

The Alaska Supreme Court has ruled on issues related to judicial waiver several times since 1950. In State v. Linn, it was settled that an early version of the Alaska waiver statute, authorizing waiver of juveniles "over 16 years of age" to criminal prosecution applied to minors who have passed their 16th birthday, i.e., to be read as "age 16 or over."[6] The contention had been advanced that minors were protected from waiver until they reached their 17th birthday. The age restriction is no longer in effect. A juvenile of any age can be judicially waived, but age is still an important consideration in the decision. (See In re P.H. and Matter of F.S. and D.H. v. State.)

In a series of rulings, the Alaska Supreme Court has required, without exception, the strictest compliance with the procedural guarantees set forth in Kent v. United States.[7] In B.A.M. v. State, it was announced that where no waiver hearing has been conducted, the superior court has no authority to treat a juvenile as an adult.[8] In R.J.C. v. State and In re P.H., the court indicated that in order for a waiver hearing to measure up to the essentials of due process and fair treatment, there must be a thorough examination of the probable cause for believing that the child committed the act charged and the amenability of the child to juvenile treatment.[9] The amenability examination must touch upon the child, his background, and alternative strategies of rehabilitation (In re P.H.), and the record must disclose the existence and evaluation of the available treatment programs for children (R.J.C. v. State). In In re P.H. the court also held that the basic factors which may enter into judging the

seriousness of the offense are the type of crime charged, the circumstances surrounding its commission, the factors leading to delinquency, and the facilities available for rehabilitation (see also J.W.H. v. State[10]).

The court's holdings in In re P.H., Matter of F.S., and D.H. v. State indicate that the age of the child, as it bears upon the ability of the court to carry out a meaningful rehabilitation program during the time remaining until it loses jurisdiction, is also an important consideration.[11] This factor alone may be sufficient to justify or to require a waiver where the youth has severe behavior problems which cannot be realistically handled during the remaining time of juvenile jurisdiction.

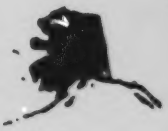
In Matter of F.S., the supreme court held that the standard of proof in regard to amenability is the preponderance of the evidence standard, rather than the clear and convincing evidence standard. The court also approved the exclusion of evidence of past misdeeds, where its probative value was outweighed by the potential for prejudice.

However, the court has not hesitated to reverse a waiver order where it is not based upon substantial evidence. In In re P.H., it was held that the probable cause determination cannot be based upon hearsay testimony. The court has also considered a variety of evidence issues relevant to amenability: the testimony of a police officer as to the child's confessed plans to commit future crimes (D.H. v. State and In Matter of J.H.B.[12]); the testimony of the probation officer that the child was not amenable, based upon prior experience and not upon interviews with the child (In re H.P.); and the victim's testimony, as well as photographs of wounds of the victim (In re P.H.).

In State v. G.L.P., the court determined that violations of Alaska's "joyriding" statute were traffice offenses which are outside the purview of juvenile court jurisdiction under Alaska law.[13] Thus, a juvenile charged with such an offense is not entitled to a waiver hearing.

CORRECTIONS INFORMATION

Both adult offenders and juvenile delinquents may be committed to the Division of Corrections, Department of Health and Social Services. Juvenile delinquents received by the division are placed in a juvenile institution. Juveniles waived to criminal courts and committed to the Division of Corrections are treated as adults. State officials informed us that, if necessary, such juveniles are placed in "protective segregation." If appropriate, they could participate in juvenile treatment programs, but they would be housed as adults. They cannot be administratively transferred to juvenile institutions; likewise, juvenile delinquents cannot be administratively transferred to adult facilities. Youth tried in district courts for minor traffic, fish and game, and parks and recreation violations may be incarcerated in juvenile corrections facilities, but not in adult facilities or jails.



The Division of Corrections was reorganized, effective October 16, 1979, to place responsibility for all juvenile activities under management of a newly established Assistant Director for Youth Services. This reorganization was done, in part, to assure that juvenile-related problems receive appropriate emphasis as a separate service section under the Division of Corrections. It should be noted that existing state statutes emphasize the separation of juvenile offenders from adult offenders by both sight and sound. Alaska is presently involved in a building program which assures compliance with this requirement in five regional centers.

STATE DATA SUMMARY

Judicial Waiver

As previously noted, judicial waiver is one of two provisions for referring juveniles to adult court in Alaska, with lesser offenses, including traffic, parks and recreation, and game violations, being originally filed in adult court without a juvenile waiver hearing (excluded offenses).

In 1978, there were a total of four juveniles judicially waived from juvenile courts, as reflected in Table 02-1. Two waivers occurred in District IV, which serves the second largest city, Fairbanks, and one waiver each were reported for District I and District III (the latter serving the state's most populated city, Anchorage). Since the single Phase II district (District II) did not waive any youth, there are no Phase II data included in this profile.

The absence of demographic and dispositional data from Alaska precludes this type of analysis. However, given that the provisions for judicial waiver are in place and functioning, we can observe that the juvenile system applies them sparingly and primarily in areas containing urban centers.

TABLE 02-1. ALASKA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY JUDICIAL DISTRICT, RATE, AND LEGAL MECHANISMS)

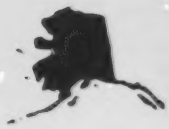
Judicial District	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Judicial District I	*	1	*
Judicial District II	*	0	*
Judicial District III	*	1	*
Judicial District IV	*	2	*
Total	76,949	4	0.520

a. Population figures were unavailable on the basis of judicial districts.

b. Rate per 10,000 juveniles eight to 17 years old (1978) are necessarily presented as a state total due to unavailability of population data (see footnote a.)

Routinely Handled Traffic and Conservation Offenses

When juveniles violated Alaska traffic or conservation ordinances in 1978, the hearings routinely took place in district courts. Information on these types of offenses committed by persons under 18 years of age were supplied for all judicial districts in Alaska, and is displayed in Table 02-2. The variation in the number of cases by district reflects the differential concentration of population in metropolitan areas within each district. District III, which



includes the state's largest city, Anchorage, as well as Kodiak, and Valdez, comprised 67 percent (3,262) of the total number of traffic violators and 71 percent (259) of the total number of conservation violators. District IV, serving the next largest city, Fairbanks, tried 16 percent of the total traffic violators and 18 percent of the conservation violation total. The smaller frequencies for District II in both of these categories is probably due to the location of only one significant city, Nome, in the entire district.

TABLE 02-2. ALASKA: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC AND CONSERVATION OFFENSES (BY JUDICIAL DISTRICT, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

Juvenile District	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses	Number of Excluded Conservation Offenses
Judicial District I	*	771	36
Judicial District II	*	57	6
Judicial District III	*	3,262	259
Judicial District IV	*	769	65
Total	76,949	4,859	366

a. Population figures were unavailable on the basis of judicial districts.

FOOTNOTES

1. Alaska Statutes, Section 47.10.010.
2. Alaska Statutes, Section 47.10.010(a)(1).
3. Alaska Statutes, Section 47.10.060.
4. Ibid.
5. Alaska Statutes, Section 47.10.010.
6. State v. Linn, 363 P.2d 361 (1961).
7. Kent v. United States, 383 U.S. 541 (1966).
8. B.A.M. v. State, 528 P.2d 437 (1974).
9. R.J.C. v. State, 520 P.2d 806 (1974); In re P.H. 504 P.2d 837 (1972).
10. J.W.H. v. State, 583 P.2d 227 (1978).
11. In the Matter of F.S., 586 P.2d 607 (1978); D.H. v. State, 561 P.2d 294 (1977).
12. In the Matter of J.H.B., 578 P.2d 146 (1978).
13. State v. G.L.P., 590 P.2d 65 (1979).

ARIZONA PROFILE

ACKNOWLEDGMENTS

For their special assistance in gathering the judicial waiver data in Arizona, the Academy expresses its gratitude to Beth Rosenberg and Peter Francis, Joint Juvenile Justice Committee, Arizona Legislative Council, and the probation staff at the Maricopa County Juvenile Court Center. The Academy also thanks Sandra Day and Don Thayer, Arizona Justice Planning Agency for reviewing the Arizona profile. In addition, appreciation is extended to the many other state and local officials who provided the study with the necessary data.

METHODOLOGY

The data on judicial waivers were gathered by telephone interviews conducted by the Academy staff. These interviews were held primarily with the juvenile probation officers and clerks of courts attached to the juvenile division of superior courts. Phase I data were sought and were available from every county in Arizona on the number of juveniles transferred to adult courts for trial during 1978. In the most populous ten percent of the counties (Maricopa in Arizona) and in the counties where the frequency of referral was five or more, Phase II data on age, sex, race, offenses, dispositions, and sentences of youth judicially transferred to criminal courts were requested and two of the Phase II counties were able to provide the majority of this information.

COURT ORGANIZION

In Arizona, each of the 14 counties has a superior court which is the highest court of general jurisdiction.

There are 89 justice courts that have original jurisdiction over misdemeanors and criminal offenses that are punishable by a fine that does not exceed $1,000 or a jail sentence that does not exceed six months. The 55 police and magistrate courts have concurrent jurisdiction with the justice courts for cases that occur within the city or town limits or are in violation of city or town ordinances.

In Arizona, the juvenile divisions of superior courts, hereafter referred to as juvenile courts, have exclusive jurisdiction in all juvenile cases. Juveniles transferred to adult courts for trial generally have their cases heard in the criminal divisions of superior courts. However, under existing

law, juveniles may also be referred to police, magistrate, or justice courts for less serious offenses. Juvenile traffic cases are handled in juvenile divisions of superior courts.[1] The presiding judge of the juvenile court may appoint traffic hearing officers. They may be magistrates, justices of the peace, or probation officers. One of the dispositions available to the traffic hearfng officer is the referral of the case to an adult court having jurisdiction over adult traffic cases solely for the imposition of a fine.

An overview of Arizona's courts by their jurisdiction over juveniles appears below.

ARIZONA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Divisions of Superior Courts	Superior Courts Justice Courts, Police Courts, Magistrate Courts	Juvenile Divisions of Superior Courts

TRANSFER PROCESS

The initial age of juvenile court jurisdiction in Arizona extends to 18 years.[2] There are no specific excluded offenses, but persons under the age of 18 charged with any offense may be judicially transferred and tried as adults after a hearing in juvenile courts.[3] Either the juvenile probation officer or the county attorney may initiate the transfer.[4]

Since Arizona considers the offender's age at the time of the indictment rather than the time when the offense was committed, prosecutors may avoid juvenile court jurisdiction by delaying the criminal indictment until the offender is 18 years of age or older.

The courts must find at the waiver hearings that an offense has been committed and must find probable cause to believe that the juvenile committed the offense.[5] The judge must further find probable cause to believe that the juvenile is not amenable to treatment through available facilities, that the juvenile is not committable to an institution for mental disorders, and that the safety or interest of the public requires the transfer.[6] In making this determination, the court must evaluate the social background of the juvenile, delinquent history, and all social records.[7]

CASE LAW SUMMARY

A search of Arizona case law back to 1950 yielded several noteworthy cases. While the issue has never been expressly resolved by the Arizona Supreme Court, it seems clear from the decisions of that court that Arizona is among the minority of states which hold that the critical date for resolving the jurisdictional issue between juvenile and adult courts is the time of criminal indictment and not that of the offense. In McBeth v. Rosel, the court held that since the decision to file a juvenile petition rests solely within the discretion of the prosecuting attorneys, the prosecuting attorneys may dismiss a juvenile petition while the individual is still within the jurisdictional age of the juvenile court and may later prosecute the individual as an adult when he has passed the jurisdictional age of the juvenile court.[8]

In State v. Jiminez, where the minutes of a transfer hearing involving two youth did not reveal that the juvenile court complied with Rule 14(c), which requires a statement of the reasons for transfer by minute entry or written order, the Arizona Supreme Court, while recognizing that this constituted error, refused to send the youth back for a due process hearing.[9] The court's refusal was based upon the fact that at the time of its decision, one of the youth had already passed the maximum jurisdictional age of the juvenile court and the other was within two months of this age. The Arizona Supreme Court indicated that it felt that the lower court did have a sufficient factual basis before it to justify the transfer, but a remand would be a futile gesture because by the time it reached the juvenile court, that court would have lost jurisdiction.

The Arizona provisions for transfer contained in Rule 14 of the Arizona Rules of Procedure for Juvenile Court require that the juvenile court determine that probable cause is present before proceeding to transfer the action for prosecution. However, the Arizona Supreme Court has held that such a finding may be waived by the child, whereupon federally imposed requirements respecting acceptance of guilty pleas do not apply (In Matter of Maricopa County,).[10] Nor, when the child has waived the finding of probable cause, need the juvenile court independently find that probable cause exists (State v. Thompson).[11]

Rule 14(b)(1) also requires that the court find reasonable grounds to believe that the child is not amenable to treatment or rehabilitation through available facilities as a basis for transferring the case for criminal prosecution. This subsection of the rule has been held out not to be unconstitutional because of vagueness. In State v. Taylor, a 1978 federal habeas corpus petition case, it was held that the rule, though general in its transfer guidelines, is not unconstitutional since it notes the relevant areas for the juvenile court to consider in making its decision.[12] Also, according to the Arizona Supreme Court, the detailed findings which were made by the juvenile court serve to flesh out the vagueness of the statute, thus providing for meaningful review as mandated by Kent v. United States and tested in Taylor v. Cardwell.[13]

In State v. Myers, the court held that so long as a youth is under the jurisdiction of the juvenile court, he has no right to a speedy trial, as the state is not proceeding against him as an adult.[14] Once the youth has been indicted upon a criminal charge, the right to a speedy trial accrues.

CORRECTIONS SUMMARY

Adult offenders (age 18 and above) convicted of a felony and sentenced to one year to life are committed to the Department of Corrections. Adults may also be sent to a departmental diagnostic facility for a maximum of 90 days for presentence evaluation. Juveniles eight to 18 years of age who are adjudicated delinquent or incorrigible by juvenile divisions of superior courts may be committed by the courts to the Department of Corrections as may juveniles tried as adults. Juveniles and adults cannot be commingled, regardless of the circumstances of their committment to the department.

Youth convicted in adult courts are placed in a special unit at the Arizona Correctional Training Facility (an adult facility) where they are completely separated from adult offenders. Youth tried in adult courts cannot be placed in a juvenile institution.[15] There is no administrative transfer possible between juvenile and adult corrections institutions.

STATE DATA SUMMARY

Judicial waiver (transfer) is the only provision by which juveniles can be tried in adult courts in Arizona. Juveniles under the age of 18 charged with any offense may be transferred to adult court.

In 1978, as shown in Table 03-1, there were 93 juveniles transferred through this process. Three Arizona counties reported no transfers in 1978, and eight counties reported less than five. Seventy percent (65) of the transfers occurred in Maricopa County (Phoenix), where 53 percent of the state's juvenile population resides.

Table 03-2 reflects the relationship between data for the entire state and for Phase II counties. Maricopa and Pima Counties were selected as Phase II counties due to population size and Apache County was included because it reported more than four transfers. Maricopa and Pima Counties also fit the latter criterion for Phase II data collection. In Arizona, the total of three Phase II counties represented 75 percent of the state juvenile population and 82 percent of the total transfers for the state.

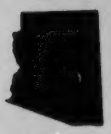


TABLE 03-1. ARIZONA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Apache	10,477	6	5.727
Cochise	14,261	1	0.701
Coconino	13,716	3	2.187
Gila	6,230	0	0.000
Graham	3,785	0	0.000
Greenlee	2,252	0	0.000
Maricopa	216,344	65	3.004
Mohave	6,449	1	1.551
Navajo	15,049	3	1.993
Pima	77,923	5	0.642
Pinal	17,680	4	2.262
Santa Cruz	3,688	1	2.711
Yavapai	7,546	1	1.325
Yuma	12,428	3	2.414
Total	407,828	93	2.280

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

TABLE 03-2. ARIZONA: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	407,828	14	93
Selected for Phase II Investigation	304,744	3	76
Percentage of State Selected for Phase II Investigation	75%	21%	82%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Table 03-3 gives a demographic breakdown by age, sex, and race of juveniles Judicially transfeffed in the Phase II counties. Of those cases for which specific information was available, 94 percent (68) of the youth judicially transferred were 17 years of age and six percent (four) were 16 years of age. Ninety-five percent (72) of the youth transferred were males. Fifty-five percent (38) were white and 45 percent (31) were minority youth.

Table 03-4 shows that of the known charges in Phase II counties 54 percent (28) were personal offenses (murder, manslaughter, rape, robbery, and assaults) and 46 percent (24) were property offenses (burglary, larceny, and auto theft). Figure 03-1 graphically depicts this information.

Table 03-5 represents the judgments of juveniles tried in adult courts in Phase II counties. Fifteen cases were held open or pending ("other"). Based on known judgments, 92 percent (45) were found guilty and eight percent (four) cases were dismissed.

Table 03-6 shows the sentences of the 45 youth in Phase II counties found guilty. Sixteen (36 percent) were sentenced to adult corrections, 26 (58 percent) were given jail sentences, and three (seven percent) were placed on probation.

TABLE 03-3. ARIZONA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex		Race		
		0-15	16	17	Unknown	Male	Female	White	Minority	Unknown
Apache	6	0	0	6	0	6	0	2	4	0
Maricopa	65	*	3 est	58 est	4 est	61	4	35 est	26 est	4 est
Pima	5	0	1	4 est	0	5	0	1	1	3
State Phase II Total	76	0	4	68	4	72	4	38	31	7

AZ-7

* denotes Not Available.

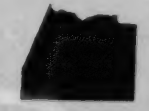


TABLE 03-4. ARIZONA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
Apache	6	0	3	0	3	0	0	0	0	0	0	0
Maricopa	65	2 est	0	12 est	0	7 est	0	22 est	1 est	0	0	21
Pima	5	1	*	*	*	*	*	*	1	*	*	3
State Phase II Total	76	3	3	12	3	7	0	22	2	0	0	24

* denotes Not Available.

a. Only most serious offense per individual listed.

TABLE 03-5. ARIZONA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other[a]	Unknown
Apache	6	0	0	6	0	0
Maricopa	65	*	4 est	39 est	15 est	7
Pima	5	*	*	*	*	5
State Phase II Total	76	0	4 est	45	15	12

* denotes Not Available.

a. Primarily cases held open or pending.

FIGURE 03-1. ARIZONA: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978

Offenses[a]	
Personal	37%
Property	32%
Public Order	0%
Other General	28%
Unknown	4%

N= 76

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 33 percent of all offenses in the Phase II counties.

TABLE 03-6. ARIZONA: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND BY SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types				
		Fined	Probation	Jail	State Adult Corrections Facilities	Other
Apache	6	0	0	0	6	0
Maricopa	39	0	3 est	26 est	10 est	0
State Phase II Total	45	0	3	26	16	0

Table 03-7 reflects the sentence duration of the 42 youth in Phase II counties sentenced to jail and state corrections institutions. Twelve (29 percent) received sentences of one year or less, 25 (60 percent) received maximum sentences of one to three years, and five (12 percent) received maximum sentence of three to five years.

Table 03-8 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts; the number selected for Phase II investigation; and findings concerning conviction and confinement practices applicable to these youth. It should be noted that conviction and confinement data from Pima County were not available for five judicial waivers. However, of the 76 youth (82 percent of all Arizona waivers) transferred to adult court in Phase II counties in 1978, at least 59 percent (45) were convicted and 55 percent (42) were known to receive sentences of confinement.

TABLE 03-7. ARIZONA: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Apache	6	0	1	5	0	0	0	0	0
Maricopa	36	12 est	24 est	0	0	0	0	0	0
State Phase II Total	42	12	25	5	0	0	0	0	0

AZ-11

TABLE 03-8. ARIZONA: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 03-1)	93
Total Referrals Selected for Phase II (Table 03-3)	76
Total Referrals Resulting in Convictions (Table 03-6)	45
Total Convictions Resulting in Sentences of Confinement (Table 03-7)	42

In summary, a great deal was learned about youth judicially transferred to adult court in 1978, primarily due to the fact that 82 percent of the 93 youth were transferred in the three Phase II counties. Among the 76 youth judicially waived in Phase II counties in 1978, at least 94 percent were age 17, while the rest whose age was reported were age 16. About 95 percent were males. Fifty-five percent were white and 45 percent were minority youth. Fifty-four percent were transferred for offenses against the person, and 46 percent for property offenses. Ninety-two percent were found guilty in adult courts and, of these, about 36 percent were incarcerated in adult corrections institutions and about 58 percent were given jail sentences. Only a few were placed on probation. Of those incarcerated, most received maximum sentences of one to three years. Only a few received maximum sentences of three to five years; none were sentenced to terms longer than five years.

FOOTNOTES

1. Arizona Revised Statutes Annotated, Section 8-232(D)(6).
2. Arizona Revised Statutes Annotated, Section 8-201(5)(8)(9).
3. Arizona Rules of Procedure for Juvenile Court, Rules 12, 13, and 14.
4. Ibid.
5. Rule 14(a).
6. Rule 14(b).
7. Rule 12.
8. McBeth v. Rosel, 531 P.2d 156 (1975).
9. State v. Jiminez, 509 P.2d 198 (1973).
10. In Matter of Maricopa County, 523 P.2d 65 (1974).
11. State v. Thompson, 545 P.2d 925 (1976).
12. State v. Taylor, 537 P.2d 938 (1975).
13. Kent v. United States, 383 U.S. 541 (1966); Taylor v. Cardwell, 579 F.2d 180 (1978).
14. State v. Myers, 569 P.2d 1351 (1977).
15. In December 1979, the Arizona Supreme Court ruled that the juvenile court loses jurisdiction on individuals when they turn 18. Therefore, individuals in juvenile facilities or juvenile placements are "free" when they turn 18.

CALIFORNIA PROFILE

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METHODOLOGY

The Bureau of Criminal Statistics provided a computer printout on youth judicially waived (remanded) to adult courts during 1978 for all counties, except Los Angeles County. Phase I data (the frequency of those remanded by county) was provided, as well as Phase II data on age, race, sex, and the charges of those remanded. No systematic verification of state-supplied data was conducted in California. The Los Angeles County Probation Department provided data covering demographic and offense information for juveniles remanded to adult courts during 1978 in Los Angeles County. Some Phase II data, namely, judgment and sentence data for youth remanded to adult courts, were unavailable for all counties in California.

California was selected for a case study as the state representing federal administrative region 9. The most populous state in the union, it has a tradition of leadership and innovation in social policy. This includes the 1976 passage of a new remand provision applicable to 16 and 17 year olds

charged with any one of 16 serious offenses. Under this provision, the burden of proof is on the juvenile to demonstrate fitness for rehabilitation in the juvenile justice system.

California is also of interest because state subsidies for the development of local juvenile justice services have been available for several years. The availability of these services is related to the possibility of rehabilitation within the juvenile justice system rather than remand to adult courts. Finally, juvenile jurisdiction is located in the highest trial-level court, with the possibility of a judge in a remand hearing also presiding in a subsequent criminal trial, even though this may not occur often.

In February 1980, three members of the Academy staff conducted in-depth interviews with 25 persons active in the California justice system. The sites selected for the interviews followed the MIJJIT format; i.e., the state capital (Sacramento), the state's largest county (Los Angeles), a representative small county (Lassen County), and San Diego County because of its high frequency of remands. In addition, one interview was conducted with a respondent from Oakland. The respondents included judges, prosecutors, defense attorneys, youth service agency staff, and legislative staff members. Questions were directed to their perceptions of the advantages and disadvantages of transferring juveniles to adult courts; how the system actually works; what changes could be foreseen or recommended; and how an ideal system might be constructed.

Background information on statutory provisions, court and corrections organization, and the 1978 census data were compiled prior to the case study trip. This research was used as a basis for the questions asked and has been included in this state profile along with the results of the case study interviews.

HISTORY OF STATUTES RELATING TO JURISDICTION AND TRANSFER

Currently in California, judicial waiver (remand) is the only mechanism that results in youth being tried in adult courts. Juveniles 16 or 17 years of age are eligible for remand to adult courts under two separate provisions. Prior to remand, the youth must receive a preliminary hearing in the juvenile court before they may be certified unfit for treatment as juveniles. Henceforth, this hearing will be referred to as a "fitness" hearing.

Separate treatment of juveniles first appeared in California law in 1889 with the passage of an act to establish a state reform school. However, California's juvenile court system did not come into being until 1903 with the passage of an act defining dependency and delinquency and providing for the control, protection, and treatment of dependent and delinquent juveniles.[1] This act gave jurisdiction to police, justices of the peace, and superior

courts to hear proceedings against juveniles alleged to be delinquent. Delinquents were defined as juveniles under 16 years of age who violated any criminal law of the state or a municipality of the state. However, the act only applied to juveniles not then or thereafter inmates of a state institution or reform school. This language was removed from the statute in 1915.

In 1909, the legislature redefined delinquency to include any juvenile under 18 years of age. The 1909 statutes also granted juvenile jurisdiction in all counties to the superior courts and allowed for judicial remand of juveniles from the juvenile session of the superior courts to the criminal session of the superior courts.[2] Juveniles under 18 years of age at the time of the commission of an offense had to first be referred to juvenile courts before trial in criminal courts could be held. The juvenile courts would then consider whether the juvenile was a fit subject for juvenile treatment and, depending upon its determination, either retain jurisdiction or direct criminal prosecution to proceed.

The 1909 legislation also provided for special treatment of youth 18 to 20 years of age (later raised to 21 years of age) who were accused of non-capital felonies and were tried as adults.[3] If the judge in the case was satisfied that the youth should be treated as a juvenile, that judge could, at the time of arraignment or at any time prior to the impanelment of the jury, recess as a criminal court and reconvene as a juvenile court. The court could then declare the youth to be a delinquent. In 1943, this provision was modified to include misdemeanor as well as felony offenders.

The first listing of guidelines for the juvenile courts to use in the fitness hearings appeared in the 1949 statutes.[4] This provision held that the courts were to consider the reports of the probation officers, the juveniles' prior record, their character, the type of offense charged, and such other factors as the courts deemed relevant to determine whether the individuals were fit subjects to be dealt with as juveniles.

The statutory scheme remained essentially the same through the rewriting of the juvenile court laws in 1961. The juvenile courts had exclusive jurisdiction of juveniles under 18 years of age and, for persons between the ages of 18 and 21, the criminal courts might suspend their proceedings and certify the matter to juvenile courts. However, the rewritten provisions contained no listing of factors to be considered by the judges in the fitness hearings, except that the offense, in and of itself, was not sufficient to support remand for a criminal trial.

In 1971, the provision allowing delinquency findings against 18 to 21 year old youth was deleted, although the juvenile courts retained exclusive jurisdiction over individuals who had not reached their 18th birthdays. The 1975 statutes added the current criteria used in the fitness hearings.[5] The remand section was radically altered by the additions of A. B. 3121 in 1976 to reach what is essentially its present form. (See "Transfer Procedures" for details.)

Case Law Summary

This section is a review of California Supreme Court rulings since 1950 relevant to the issues involved in trying youth as adults. Prior to the decision of Kent v. United States, in People v. Dotson, the California Supreme Court held that juveniles in California had no right to legal representation in a fitness hearing unless the lack of representation resulted in a palpable deprivation of due process rights.[6] A lack of written findings of fact or of a written probation officer's report did not constitute error in fitness hearings, as held in People v. Yeager.[7]

In 1963, the California Supreme Court held, in People v. Shipp, that the fact that the fitness hearing statute contained no standards to guide the trial judge in exercising discretion did not deny equal protection nor was it unconstitutionally vague.[8] Furthermore, the California Supreme Court indicated in the Shipp case, as it had done earlier in People v. Dotson, that a finding of unfitness might be based solely upon the nature of the charges lodged against a juvenile in a proper case.[9]

With Jimmy H. v. Superior Court, the California Supreme Court, in 1970, assumed the task of reading the Kent due process requirements into the fitness hearing statute.[10] It held that the juvenile courts must go beyond the circumstances surrounding the offense itself. The juvenile courts could inquire into the juveniles' past record and must take into account their behavior patterns as described in the probation officers' reports. Expert testimony as to the juveniles' amenability to treatment was to be given heavy weight. The burden to prove nonamenability to treatment was placed upon the prosecution, which had to adduce substantial evidence that the juveniles were not fit and proper subjects for juvenile treatment. Such substantial evidence had to appear in the record supporting the certification decree.

The first post-Kent case to reach the court was In re Harris, where the court declined to apply Kent retroactively.[11] The Ninth Circuit Court of Appeals, which had previously given Kent retroactive effect in habeas corpus cases, overruled itself in 1974, in Harris v. Procunier, placing itself in conformity with the California Supreme Court on the issue.[12]

In Alfred B. v. Superior Court, it was determined that Alfred B.'s fitness for juvenile treatment had to be reevaluated on remand in light of the factors set forth in Jimmy H.[13] On rehearing the case, the superior court found him fit for treatment as a juvenile, but the Youth Authority Board rejected him for treatment, whereupon the superior court turned him over to adult prosecution. On appeal, in Bryan v. Superior Court, the California Supreme Court affirmed the superior court action, on the ground that the Youth Authority Board had made a nonmechanical determination that Bryan was not treatable within the short time remaining before his mandatory discharge date.[14]

In Donald L. V. v. Superior Court, the California Supreme Court approved a finding of unfitness for juvenile treatment and subsequent remand, which was supported by the trial court records.[15] The California Supreme Court at this time also reaffirmed the constitutionality of the fitness statute despite a lack of particularity of its language, stating that an attempt to further explicate the fitness standards would result in mechanical categories and loss of individual treatment of offenders.

The admission of hearsay evidence that was "material, relevant" and "reliable" in a fitness hearing was approved by the court in People v. Chi Ko Wong.[16] According to the court, the receipt of such evidence does not transgress Kent due process grounds, as the fitness hearing is not adjudicatory in nature.

The reasoning that the fitness hearing is nonadjudicatory in nature, merely being aimed at determining the fitness of individuals for juvenile treatment, led the court to conclude, in In re Hurlic, that such hearings do not impose double jeopardy upon juveniles who are criminally tried after remand.[17]

Juvenile Court Dispositional Options

Juvenile courts have a variety of dispositional options available for individuals who are declared wards by virtue of delinquency adjudications. Judges may order any type of statutorily specified treatment, which includes probation or commitment to an individual, foster home, private institution, or public agency. Further, the juvenile code authorizes commitment to a county juvenile home, ranch, camp, or forestry camp. Finally, the juvenile code provides for commitment to the Department of the Youth Authority (colloquially known as the California Youth Authority--CYA). Juveniles are committed to CYA for indeterminate sentences during which they may not be confined for periods exceeding the maximum adult term for the same offense.[18] It should be noted here that "commitment" to the CYA means placement within the legal custody and control of the California Youth Authority, and does not necessarily connote physical confinement in a CYA institution. This distinction becomes critical when examining the statutory limitations concerning commitment and confinement, in that they overlap but are not the same. Thus, the jurisdictional or commitment period is generally longer than the permissible period of confinement.

The maximum age to which the CYA may retain jurisdiction is 21, except that it is 23 for minors who committed certain very serious offenses at the age of 16 or 17.[19]

PROCEDURES FOR TRYING YOUTH AS ADULTS IN 1978

Court Organization

The highest courts of general jurisdiction for California are superior courts. There are 58 superior courts, with one court in each county of the state.

All juvenile cases are under the jurisdiction of superior courts' juvenile sessions, hereafter referred to as the juvenile courts. Juvenile court judges may appoint one or more persons of suitable experience to serve as traffic hearing officers. These appointed persons may be judges of the municipal courts, justices of the justice courts, probation officers, or assistant or deputy probation officers. Traffic hearing officers in the juvenile courts may dispose of all cases of a minor under the age of 18 charged with a nonfelony traffic, fish and game violation, or boating violations.

When 16 or 17 year olds are found unfit for treatment as juveniles in the juvenile division of the superior courts, they will have their cases removed to and heard in the criminal session of superior courts. In some of the smaller counties in California, the same judge may preside at both hearings.

An overview of California's courts by their jurisdiction over juveniles appears below.

CALIFORNIA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction Over Transferred Juveniles	Juvenile Traffic[a]
Juvenile Session of Superior Courts	Criminal Session of Superior Courts	Juvenile Session of Superior Courts

a. Including fish and game violations as well as boating violations.

Transfer Process

The initial age of juvenile court jurisdiction in California extends to 18 years of age.[20] However, there are two provisions under which juveniles may be prosecuted in adult courts, through a judicial waiver (remand) mechanism. First, prosecuting attorneys may request remand to criminal courts for youth 16 years of age or older charged with any offense. A fitness hearing is then held in juvenile court to determine whether the case should be remanded, utilizing information provided by probation officers, the petitioners, or the minor.[21]

The criteria to be evaluated in the fitness hearing include:

- The degree of criminal sophistication exhibited by the juvenile.
- Whether the juvenile can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- The juvenile's previous delinquent history.
- Success of previous attempts by the juvenile court to rehabilitate the juvenile.
- The circumstances and gravity of the offense alleged to have been committed by the juvenile.[22]

The judge, after investigation, must find the juvenile not amenable to treatment as a juvenile, and the prosecution must show that the juveniles is unfit for juvenile court treatment, before the remand can be ordered by the court.

The second instance occurs when youth 16 years of age or older commit serious offenses.[23] The offenses within this category are murder, arson of an inhabited building, robbery while armed with a dangerous or deadly weapon, rape with force or violence or threat of great bodily harm, sodomy by force, oral copulation by force, kidnapping for ransom, kidnapping for purpose of robbery, kidnapping with bodily harm, assault with intent to murder or attempted murder, assault with a firearm or destructive device, assault by any means of force likely to produce great bodily injury, and discharge of a firearm into an inhabited or occupied building.

As with the first provision, a fitness hearing initiated at the request of the prosecuting attorneys must be held prior to remand. Similarly, the determination of fitness is made on the basis of information provided by probation officers, petitioners, or the juveniles, using the criteria listed above. However, in these cases, the burden of proof for fitness to have the petition heard as a juvenile is on the juveniles who are presumed to be unfit.[24] If fitness for juvenile court proceedings cannot be proved, the juveniles must be remanded to criminal courts.

The second provision, when it was passed in 1976, provided that remand was mandatory for any juveniles who were charged with one of the specified serious offenses unless the juveniles demonstrated fitness under one of the five criteria enumerated under the first provision. In 1979, this section of the code was amended to require that the juveniles must prove their fitness under each criterion. Consequently, it is extremely unlikely that juvenile courts will retain jurisdiction over many such cases, since the judges must make and recite findings for all criteria.

In 1980, further amendments were added affecting juveniles charged with certain specified violent offenses who have their petitions heard in juvenile courts.[25] Effective January 1, 1981, this legislation opens juvenile court hearings for the juveniles so charged to the public on the same basis as adult court trials. This openness includes fitness hearings with their hearsay evidence, psychological reports, etc. According to state officials, it is too early to tell what kind of impact this may have on the number of youth determined to be unfit for juvenile treatment.

Role of the Prosecutor

Prior to the enactment of A.B. 3121 in 1976, the district attorneys' role in juvenile court proceedings was minimal. Petitions alleging delinquency were previously filed by probation officers. However, A.B. 3121 amended the California Welfare and Institutions Code to require the filing of such petitions by the prosecuting attorneys and to provide that the prosecutors can refuse to file a petition even if the probation officers, who still perform the intake function, recommend a filing. Beginning January 1, 1977, juvenile court proceedings have tended to become more adversarial, as a result of the introduction of the district attorneys as key participants in possible remand cases. The prosecuting attorneys represent the state at the "fitness" hearings and automatically acquire authority to prosecute in criminal courts, upon finding of unfitness.

Defender Services

In California law, accused juvenile offenders are entitled to counsel, with counsel appointed if the family is unable to afford privately retained counsel. Public defender offices are maintained by the various counties and are widely available throughout the state.

Confinement Practices

Detention Practices

Prior to being remanded to criminal courts, youth who are under 18 years of age are detained in juvenile halls. After the entry of the remand order, youth will remain in juvenile halls, if confinement is required, pending final disposition of their criminal cases, unless the juvenile court makes specific findings that either the safety of the public or that of the other inmates requires a transfer to the custody of the sheriff. In the event that the youth is placed by the sheriff in an adult detention facility, state statute prohibits commingling of the youth with adult detainees.[26]

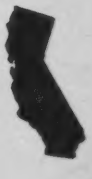
Dispositional Alternatives

Adult felons are committed to the Department of Corrections (DOC) by superior court judges for terms prescribed by law. Such terms are determinate in nature, except for offenses which could result in life sentences. Youth under age 21 at the time of apprehension who can be materially benefitted by the reformatory and educational discipline of the Department of the Youth Authority may be committed to it as youthful offenders, after conviction in criminal court. Youth convicted of specified serious offenses and youth sentenced for 90 days or less are not eligible for this option.

In California, youth convicted as adults and sentenced by adult courts must have the benefit of presentence reports to the sentencing court. They may then be placed on probation or sentenced to county jails, unless a weapon was used or great bodily harm inflicted. In those cases, offenders must be sentenced to either DOC or CYA. If the individual has been sentenced to life imprisonment, only sentences to DOC are possible. If the sentence calls for imprisonment for 90 days or less, youth may not be committed to the CYA but will instead be sent to the county jail, unless the CYA commitment is specified as temporary, for the express purpose of receiving diagnosis and treatment recommendations. Such a diagnostic period with CYA is a condition precedent to commitment to the Department of Corrections, for individuals who were under 18 years of age when the offense was committed.[27]

Once an individual has been committed to CYA by a criminal court, the following statutory limitations apply.

> 1770. Every person convicted of a misdemeanor and committed to the authority shall be discharged upon the expiration of a two-year period of control or when the person reaches his 23rd birthday, whichever occurs later, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800).



> 1771. Every person convicted of a felony and committed to the authority shall be discharged when such person reaches his 25th birthday, unless an order for further detention has been made by the committing court pursuant to Article 6 (commencing with Section 1800) or unless a petition is filed under Article 5 of this chapter. In the event such a petition under Article 5 is filed, the authority shall retain control until the final disposition of the proceedings under Article 5.[28]

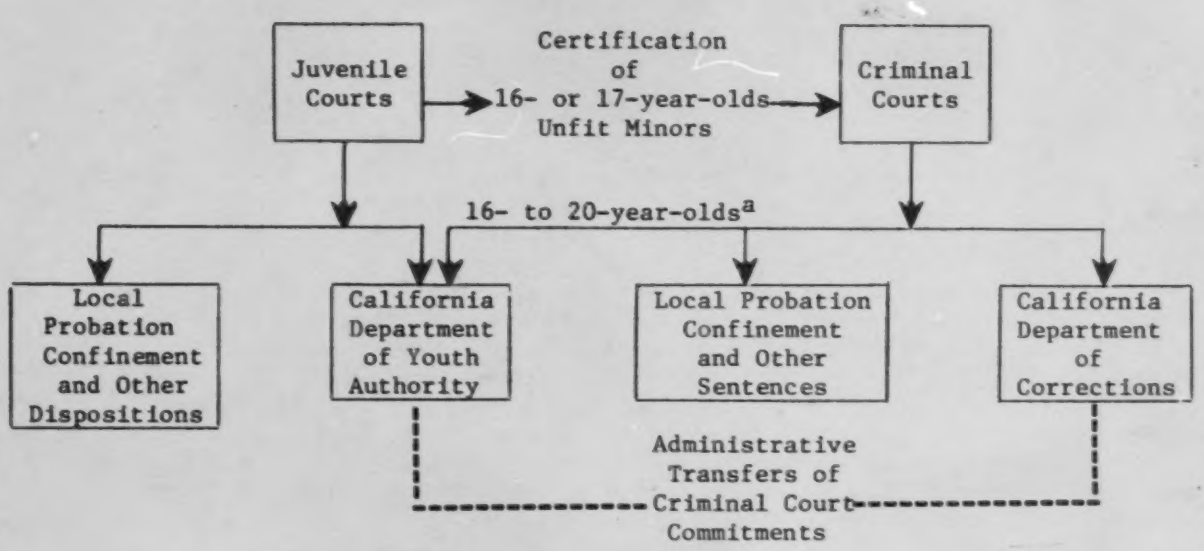
State statute provides that youth may be transferred to a state prison if the statutorily specified CYA discharge date occurs prior to the end of the period of time which equals the maximum sentence for the offense of which the offender was convicted.[29] The offender will then serve the maximum term minus the time spent under commitment to CYA.

The Youthful Offender Parole Board may determine that a youth who has been convicted of a public offense in adult courts and committed to the Youth Authority may be an improper person to be retained by the Youth Authority or too incorrigible for or incapable of reformation under the Youth Authority.[30] The board may determine such a person to be detrimental to the other youth in the program and may order the return of that person to the committing court. The court may then sentence the youth to a state prison or to the county jail.[31]

State authorities indicate that once assigned to adult corrections, there is a provision to administratively transfer individuals to juvenile facilities, although this procedure is rarely used. There are currently no provisions to administratively transfer juvenile delinquents to adult corrections institutions, even though youthful offenders may be so transferred.

Figure 05-1 summarizes the transfer processes and dispositional options in California.

FIGURE 05-1. CALIFORNIA: DISPOSITIONAL OPTIONS FOR JUVENILE AND CRIMINAL COURTS


Juvenile Courts
Certification of 16- or 17-year-olds Unfit Minors
Criminal Courts
16- to 20-year-olds[a]
Local Probation Confinement and Other Dispositions
California Department of Youth Authority
Local Probation Confinement and Other Sentences
California Department of Corrections
Administrative Transfers of Criminal Court Commitments

a. Age at time of apprehension.

STATE DATA SUMMARY

In California, judicial remand is the only mechanism that results in juveniles being tried in adult courts. Juveniles 16 or 17 years of age are eligible for remand to adult courts under two provisions.

In 1978, there were 946 youth (see Table 05-1) remanded to adult courts after hearings in juvenile courts. Los Angeles and San Diego Counties represented 46 percent of the juveniles remanded in the state. Kings and Mendocino Counties had the highest rates per capita of judicial remand in California. There was much variation among counties in the frequency of remands, without any apparent trends.

TABLE 05-1. CALIFORNIA: REFERRALS OF JUVENILE TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Alameda	173,762	92	5.295
Alpine	147	0	0.000
Amador	2,247	0	0.000
Butte	18,541	2	1.079
Calaveras	2,160	0	0.000
Colusa	2,227	1	4.490
Contra Costa	107,104	0	0.000
Del Norte	3,057	0	0.000
El Dorado	9,892	4	4.044
Fresno	81,314	12	1.476
Glenn	3,228	0	0.000
Humboldt	17,878	3	1.678
Imperial	18,337	11	5.999
Inyo	2,948	2	6.784
Kern	67,020	5	0.746
Kings	13,853	41	29.596
Lake	3,439	1	2.908
Lassen	3,096	1	3.230
Los Angeles	1,141,065	137	1.201
Madera	8,866	5	5.640
Marin	35,966	12	3.336
Mariposa	1,287	0	0.000
Mendocino	9,808	21	21.411
Merced	24,525	13	5.301
Modoc	1,320	1	7.576
Mono	1,245	0	0.000
Monterey	44,972	3	0.667
Napa	14,975	4	2.671
Nevada	5,605	0	0.000
Orange	309,663	41	1.324
Placer	15,740	0	0.000
Plumas	2,591	1	3.860
Riverside	92,037	24	2.608
Sacramento	123,865	10	0.807
San Benito	3,898	0	0.000

TABLE 05-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
San Bernardino	126,331	5	0.396
San Diego	261,623	299	11.429
San Francisco	74,418	0	0.000
San Joaquin	51,638	5	0.968
San Luis Obispo	17,949	6	3.343
San Mateo	92,586	18	1.944
Santa Barbara	46,274	12	2.593
Santa Clara	217,909	70	3.212
Santa Cruz	23,767	12	5.049
Shasta	17,055	6	3.518
Sierra	394	0	0.000
Siskiyou	5,866	0	0.000
Solano	34,362	11	3.201
Sonoma	42,439	21	4.948
Stanislaus	41,173	1	0.243
Sutter	8,575	1	1.166
Tehama	5,970	0	0.000
Trinity	1,789	0	0.000
Tulare	40,736	21	5.155
Tuolumne	3,903	3	7.686
Ventura	87,908	4	0.455
Yolo	16,749	3	1.791
Yuba	9,414	1	1.062
Total	3,596,506	946	2.630

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

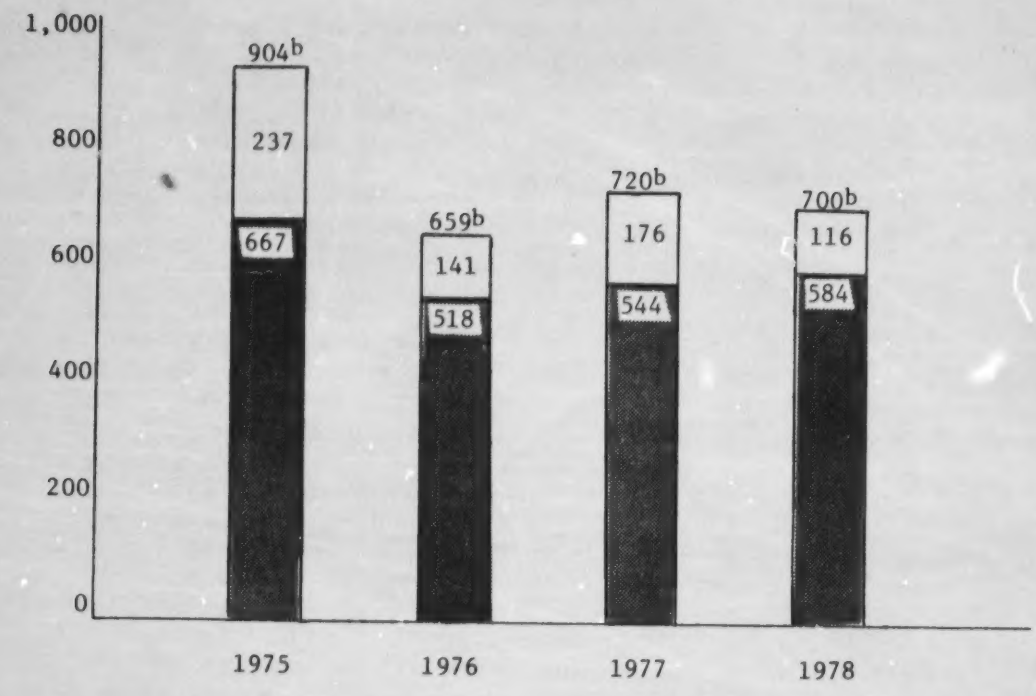
b. Rate per 10,000 juveniles eight to 17 years old (1978).

Figure 05-2 reflects statewide trend data over a four year period. Each year's bar chart is divided into two parts, reflecting the manner in which statistics are kept in California. Juvenile court remands are reported according to whether or not the juveniles are currently before the courts (on probation) or are first-time offenders. The remands in 1977 appear to be markedly higher than in 1976, both in terms of the data from the Bureau of Criminal Statistics, shown in the figure, or from the California Youth Authority, reported in footnote b. It is notable that statutory changes occurred in 1976. There are considerable discrepancies between the BCS and CYA data, as well as the BCS-Los Angeles County data reported to the Academy for the year 1978. No clear explanation seems possible.

In California, some Phase II data were available from the Bureau of Criminal statistics for all 42 counties which reported judicial remands except Los Angeles County. The Los Angeles County Probation Department provided its own data, to the extent available, which was supplemented by a report prepared by Teilmann and Klein at the University of California Social Science Research Institute. However, data on sentence types and incarceration length were unavailable for the rest of the state.

Table 05-2 gives a demographic breakdown--age, sex, and race--of juveniles remanded to adult courts. It should be noted that 18 youth are recorded within the under-16 age category as having been remanded to adult courts, despite the California statute provisions (Sections 650(b) and 707 (a)) limiting the possibility of remand to juveniles 16 and 17 years of age. This contradiction may either be due to an error in state data recording or to the use of a fiscal reporting year by some counties which takes the birth year as the age determination. Juveniles listed in the 18 years of age and over category probably were 17 years old at the time of the offense. The majority of juveniles remanded were 17 years old. Of those cases in which Phase II information was available, 90 percent (847) of the youth remanded were males, 57 percent (523) were minority youth, and 43 percent (401) were white youth.

FIGURE 05-2. CALIFORNIA: COMPARISON OF REMANDS OF JUVENILES FROM 1975 TO 1978[a]



= Subsequent petition remands.

= Initial petition remands.

a. Source: Crime and Delinquency in California 1978, Part II, California Department of Justice, Bureau of Criminal Statistics. Tables 23 and 25.

b. California Youth Authority reports different statistics for the same years, citing BCS as the source. CYA reports 602 remands as follows: 1975 - 800; 1976 - 703; 1977 - 781; 1978 - 803. All of these data cited by CYA excludes Los Angeles County for all years; yet these statistics show higher frequencies than are shown by BCS for three of the four years. Academy data on Table 05-1 reflect 946 remands for 1978, obtained from a BCS printout for 57 counties, plus Los Angeles County data obtained from the Los Angeles County Probation Department. Part of the discrepancies for 1978 may be due to changes in reporting procedures for Los Angeles County. The discrepancies between BCS and CYA statistics are all directly traceable to subsequent petition data.

TABLE 05-2. CALIFORNIA: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY, AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age					Sex			Race		
		0-15	16	17	18+	Un-known	Male	Female	Un-known	White	Minor-ity	Un-known
Alameda	92	1	0	21	70	0	73	19	0	31	58	3
Alpine	0	0	0	0	0	0	0	0	0	0	0	0
Amador	0	0	0	0	0	0	0	0	0	0	0	0
Butte	2	0	0	0	2	0	2	0	0	1	*	1
Calaveras	0	0	0	0	0	0	0	0	0	0	0	0
Colusa	1	0	0	0	1	0	1	0	0	0	1	0
Contra Costa	0	0	0	0	0	0	0	0	0	0	0	0
Del Norte	0	0	0	0	0	0	0	0	0	0	0	0
El Dorado	4	0	0	0	4	0	3	1	0	4	0	0
Fresno	12	1	1	2	8	0	12	0	0	5	7	0
Glenn	0	0	0	0	0	0	0	0	0	0	0	0
Humboldt	3	0	0	0	3	0	3	0	0	1	2	0
Imperial	11	*	1	5	4	1	9	1	1	1	9	1
Inyo	2	0	0	0	2	0	2	0	0	2	0	0
Kern	5	1	0	1	3	0	4	1	0	2	3	0
Kings	41	5	2	13	21	0	32	9	0	17	23	1
Lake	1	0	0	0	1	0	1	0	0	1	0	0
Lassen	1	0	0	0	1	0	1	0	0	0	1	0
Los Angeles	137	1	29	78	29	0	131	6	0	27	110	0
Madera	5	*	*	1	3	1	4	1	0	2	2	1
Marin	12	4	3	2	3	0	11	1	0	12	0	0
Mariposa	0	0	0	0	0	0	0	0	0	0	0	0
Mendocino	21	0	0	7	14	0	16	5	0	16	5	0
Merced	13	0	0	0	13	0	12	1	0	7	6	0
Modoc	1	0	0	1	0	0	1	0	0	1	0	0

TABLE 05-2. (Continued)

County	Total Waivers	Age					Sex			Race		
		0-15	16	17	18+	Un-known	Male	Female	Un-known	White	Minor-ity	Un-known
Mono	0	0	0	0	0	0	0	0	0	0	0	0
Monterey	3	0	0	1	2	0	2	1	0	1	2	0
Napa	4	1	0	0	3	0	3	1	0	4	0	0
Nevada	0	0	0	0	0	0	0	0	0	0	0	0
Orange	41	0	3	11	27	0	40	1	0	17	24	0
Placer	0	0	0	0	0	0	0	0	0	0	0	0
Plumas	1	0	0	0	1	0	1	0	0	1	0	0
Riverside	24	0	1	9	14	0	21	3	0	9	15	0
Sacramento	10	0	1	2	7	0	10	0	0	5	5	0
San Benito	0	0	0	0	0	0	0	0	0	0	0	0
San Bernardino	5	0	1	0	4	0	4	1	0	5	0	0
San Diego	299	1	13	57	217	1	275	23	1	135	163	1
San Francisco	0	0	0	0	0	0	0	0	0	0	0	0
San Joaquin	5	0	0	1	4	0	5	0	0	2	3	0
San Luis Obispo	6	0	0	3	3	0	6	0	0	4	2	0
San Mateo	18	0	1	7	10	0	18	0	0	5	12	1
Santa Barbara	12	2	1	0	9	0	8	4	0	3	9	0
Santa Clara	70	0	4	17	49	0	57	13	0	31	29	10
Santa Cruz	12	0	0	3	9	0	11	1	0	9	3	0
Shasta	6	0	0	3	3	0	6	0	0	5	1	0
Sierra	0	0	0	0	0	0	0	0	0	0	0	0
Siskiyou	0	0	0	0	0	0	0	0	0	0	0	0
Solano	11	0	1	2	8	0	11	0	0	6	4	1
Sonoma	21	0	1	6	14	0	19	2	0	16	5	0
Stanislaus	1	0	0	0	1	0	1	0	0	1	0	0

TABLE 05-2. (Continued)

County	Total Waivers	Age					Sex			Race		
		0-15	16	17	18+	Un-known	Male	Female	Un-known	White	Minor-ity	Un-known
Sutter	1	0	0	0	1	0	1	0	0	1	0	0
Tehama	0	0	0	0	0	0	0	0	0	0	0	0
Trinity	0	0	0	0	0	0	0	0	0	0	0	0
Tulare	21	0	1	8	12	0	19	2	0	5	15	1
Tuolumne	3	0	0	1	2	0	3	0	0	2	*	1
Ventura	4	0	0	0	4	0	4	0	0	1	3	0
Yolo	3	1	0	0	2	0	3	0	0	2	1	0
Yuba	1	0	0	0	1	0	1	0	0	1	0	0
State Total	946	18	64	272	589	3	847	97	2	401	523	22

* denotes Not Available.

Table 05-2A compares the more detailed Phase II data regarding race collected for Los Angeles County with data for the remainder of the state. This information reflects the higher proportion of Mexican-American and black youth (78 percent) remanded in this urban county, especially in relation to the 20 percent of remanded youth in the county who were white.

TABLE 05-2A. CALIFORNIA: REMANDS TO ADULT COURTS FOR LOS ANGELES COUNTY AND THE REST OF THE STATE (BY RACE AND PERCENTAGE) IN 1978

Race	California		California, Excluding Los Angeles County		Los Angeles County	
	Cases	Percent	Cases	Percent	Cases	Percent
Mexican-Americans	262	28	221	27	41	30
Blacks	238	25	172	21	66	48
Other Minority	23	2	20	3	3	2
White	401	42	374	46	27	20
Unknown	22	2	22	3	0	0
Total	946	99[a]	809	100	137	100

a. Loss of one percent due to rounding.

Table 05-3 displays the most serious charges against youth remanded to adult courts during 1978. Forty-six percent (433) of the offenses were personal offenses (murder, manslaughter, rape, robbery, assault, and other personal offenses), and 32 percent (306) were property offenses, such as burglary, auto theft, larceny, and trespassing (also see Figure 05-3). Fifteen percent (138) were public order offenses, such as malicious destruction of property and drug and alcohol violations. "Other personal" offenses included weapons violations, sexual assault, and escape. Seven percent were "other general" offenses, such as status offenses, traffic offenses, and offenses against the family.

TABLE 05-3. CALIFORNIA: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]								
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-saults	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General
Alameda	92	2	2	9	14	10	22	10	15	8
Butte	2	0	0	0	1	0	0	0	1	0
Colusa	1	0	0	0	0	0	0	1	0	0
El Dorado	4	0	0	0	1	0	1	1	1	0
Fresno	12	0	0	0	6	0	4	0	2	0
Humboldt	3	0	0	0	0	0	0	0	3	0
Imperial	11	0	0	1	3	0	2	5	0	0
Inyo	2	0	0	0	1	0	0	0	0	1
Kern	5	0	1	1	1	0	0	0	0	2
Kings	41	0	0	0	12	1	8	5	10	5
Lake	1	0	0	0	0	0	0	1	0	0
Lassen	1	1	0	0	0	0	0	0	0	0
Los Angeles	137	33	1	35	10	13	11	16	5	4
Madera	5	0	0	2	1	0	0	1	1	0
Marin	12	0	0	0	0	0	1	3	1	7
Mendocino	21	0	1	1	5	1	0	4	6	3
Merced	13	0	0	1	2	0	5	0	5	0
Modoc	1	0	0	0	0	0	1	0	0	0
Monterey	3	0	0	0	1	0	1	0	1	0
Napa	4	0	0	0	0	0	1	2	1	0
Orange	41	4	1	18	5	1	4	4	2	2
Plumas	1	0	0	0	0	0	1	0	0	0

TABLE 05-3. (Continued)

County	Total Waivers	Offenses[a]								
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-saults	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General
Riverside	24	2	2	5	5	0	4	0	4	2
Sacramento	10	2	1	2	1	0	4	0	0	0
San Bernardino	5	3	0	0	0	0	0	1	1	0
San Diego	299	6	5	48	32	13	81	44	52	18
San Joaquin	5	0	0	3	0	0	0	0	1	1
San Luis Obispo	6	0	0	2	2	0	0	0	2	0
San Mateo	18	0	0	7	3	1	3	1	2	1
Santa Barbara	12	1	0	0	3	0	1	2	2	3
Santa Clara	70	1	4	11	7	6	10	11	13	7
Santa Cruz	12	0	0	2	6	0	2	2	0	0
Shasta	6	1	0	0	1	1	2	1	0	0
Solano	11	0	0	5	2	0	1	1	1	1
Sonoma	21	3	1	0	2	1	3	7	3	1
Stanislaus	1	0	0	0	0	1	0	0	0	0
Sutter	1	0	0	0	0	0	1	0	0	0
Tulare	21	3	0	1	9	0	2	2	2	2
Tuolumne	3	0	0	0	0	0	1	2	0	0
Ventura	4	1	0	1	0	0	0	1	1	0

TABLE 05-3. (Continued)

County	Total Waivers	Offenses[a]								
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-saults	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General
Yolo	3	0	1	0	0	0	1	0	0	1
Yuba	1	0	0	0	1	0	0	0	0	0
State Total	946	63	20	155	146	49	178	128	138	69

a. Only most serious offense per individual listed.

FIGURE 05-3. CALIFORNIA: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978

Offenses[a]	
Personal	46%
Property	32%
Public Order	15%
Other General	7%

N= 946

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 32 percent of all offenses in the Phase II counties.

Looking at Los Angeles and San Diego Counties (the two counties with the highest number of remands) in more detail reveals a different pattern of offenses for those remanded. In Los Angeles, 74 percent were personal offenses; in San Diego, 35 percent. Burglary represented 27 percent of the offenses in San Diego as compared to eight percent in Los Angeles County. Four percent of the offenses in Los Angeles County were public order offenses, as compared to 17 percent in San Diego. Alcohol and drug violations were the majority of the public order offenses in San Diego County. A graphic representation of this information by percentages is provided in Figure 05-3.

While offense data for youth remanded in other years were not available, offense data were available on total juvenile arrests statewide from 1974 to 1978. These rates are particularly important since concern over juvenile crime has formed the context of much of the consideration in the California legislature of provisions to try youth as adults. Table 05-3A shows the declining number of juvenile arrests from 1974 to 1978. Property crimes evidenced the smallest rate of decline from 1974 to 1978. Of special note is, however, the general decline in every major category from 1974 to 1978. It should be noted, however, that (a) a large part of this decline has come from the decline in the category of "delinquent tendencies" arrests, and (b) recent contacts with officials in Los Angeles County, as well as published material, indicate that the rates of juvenile crime in that county have been rising since 1979, especially in juvenile gang-related crime, and that the 1974 to 1978 trend may be reversing.[32]

TABLE 05-3A. CALIFORNIA: JUVENILE ARRESTS FOR FELONIES, MISDEMEANORS, AND DELINQUENT TENDENCIES FROM 1974 to 1978[a]

Year	Total Felonies	Felony Subgroup: Crimes Against Persons[b]	Felony Subgroup: Property Crimes[c]	Mis-demeanors	Delinquent Tendencies[d]
1974	134,517	17,030	70,629	165,716	107,898
1975	127,842	17,742	72,871	156,971	86,137
1976	103,003	16,398	69,444	169,987	80,762
1977	102,473	16,141	70,877	168,689	43,713
1978	101,008	15,521	69,622	153,393	33,128

a. Source: California Department of the Youth Authority, Division of Research

b. Homicide, robbery, rape, assault.

c. Burglary, grand theft, auto theft, forgery.

d. Generally, status (601) offenses.

Judgment and sentence data were not available for youth remanded to adult courts statewide in 1978. However, in their Assessment of the Impact of California's 1977 Juvenile Justice Legislation,[33] Teilmann and Klein noted that in 7.4 percent of the remand cases in Los Angeles County (1976 and 1977) the district attorneys rejected the case, in 5.9 percent the cases were not refiled by the police, and 6.6 percent of the cases were dismissed at the preliminary hearing in criminal courts. Of the remaining cases, 46.9 percent pled guilty to lesser charges, 12.2 percent pled guilty, and 21.0 percent went to trial. It is not clear whether these percentages were typical of the entire state in those years.

Although the data in Table 05-4 are limited to Los Angeles in 1976 and 1977, it appears that over one-third of these remand hearings do not result in remand to criminal courts. It is not clear how typical these percentages are statewide or for other years, but it does suggest that the judges in Los Angeles County do not automatically remand youth when requested to do so.

TABLE 05.4. CALIFORNIA: LOS ANGELES COUNTY PERCENTAGE OF REMAND HEARINGS AND YOUTH REMANDED TO CRIMINAL COURTS IN 1976 AND 1977[a]

	1976	1977
Total Remand Hearings	109	456
Remanded to Criminal Courts	67 (61.5%)	224 (49.1%)
Not Remanded to Criminal Courts	42 (38.5%)	232 (50.9%)

a. Source: Katherine S. Teilmann and Malcolm W. Klein, Assessment of the Impact of California's 1977 Juvenile Justice Legislation, University of Southern California Social Science Research Institute, January, 1979.

Teilmann and Klein also report that in Los Angeles County in 1976 and 1977 slightly more cases tried in juvenile courts resulted in conviction than in adult courts, when the 19.9 percent of remanded cases that never got beyond the preliminary hearing are included. Overall, they conclude that almost the same proportion of juveniles are found guilty in both systems. However, as Table 05-5 shows, the convicted remanded youth were somewhat more likely to receive sentences involving secure confinement than the juveniles convicted in the juvenile courts. Interestingly, over

half of the convicted remanded youth were sentenced to the California Youth Authority (see Table 05-6). Teilmann and Klein point out that some district attorneys feel that if juveniles are merely sent to the Youth Authority from adult courts, there is little advantage in going through the fitness process. However, they also noted that about 40 percent of remanded youth in Los Angeles County in 1976 and 1977 got more severe dispositions than the most severe juvenile court disposition.

TABLE 05-5. CALIFORNIA: LOS ANGELES COUNTY OUTCOMES OF CASES REMANDED AND RETAINED BY JUVENILE COURT IN 1976 and 1977[a]

	Total Hearings	Ultimately Confined	Ultimately Not Confined
Remanded to Adult Courts	212	190 (89.6%)	22 (10.4%)
Not Remanded to Adult Courts (Retained in Juvenile Courts)	220	165 (75.0%)	55 (25.0%)
Total	432	355	77

a. Source: Katherine S. Teilmann and Malcolm W. Klein, Assessment of the Impact of California's 1977 Juvenile Justice Legislation, University of Southern California Social Science Research Institute, January, 1979.

TABLE 05-6. CALIFORNIA: LOS ANGELES COUNTY SENTENCES OF ALL CASES REMANDED TO AND CONVICTED IN ADULT COURTS IN 1976 AND 1977[a]

Sentence Types	Convictions	Percent
State Prison	41	20.2
Sentences, including County Jail	41	20.2
California Youth Authority	109	53.7
No Confinement	9	4.4
Other	3	1.5
Total	203	100.0

a. Source: Katherine S. Teilmann and Malcolm W. Klein, Assessment of the Impact of California's 1977 Juvenile Justice Legislation, University of Southern California Social Science Research Institute, January, 1979.

Finally, to better understand the impact of adult court sentences on the Youth Authority, data on the source of first admissions to the Youth Authority from 1974 to 1978 statewide are included in Table 05-7. The most notable aspect of the data is the relative overall stability of adult court admissions, while juvenile court admissions have increased steadily.

TABLE 05-7. CALIFORNIA: DEPARTMENT OF THE YOUTH AUTHORITY FIRST ADMISSIONS (BY COMMITTING COURTS) FROM 1974 THROUGH 1978[a]

Year	Total First Admissions	Juvenile Court Commitments	Adult Court Sentences
1974	3,002	1,527	1,475
1975	3,404	1,829	1,575
1976	3,559	1,754	1,805
1977	3,626	2,013	1,613
1978	3,776	2,198	1,578
Total Change	+774	+671	+103

a. Source: California Youth Authority, Division of Research, November, 1977.

In summary, in California in 1978, there was much variation by county in the frequency of remands and the type of youth remanded to adult courts. The majority of remands in that year were for older, male, and minority youth. Fifteen counties had ten percent or less of the reported remands for public order and other general offenses. These same counties tended to have higher numbers of remand for personal offenses. In contrast, nine counties had 40 percent or more of their reported remands for public order and other general offenses. The data presented on adjudications and dispositions is limited to Los Angeles County for 1976 and 1977.

RESULTS OF ON-SITE INTERVIEWS

The perceptions held by the various persons in California are important to a fuller understanding of past and present remand practices in the state. Even when some of these perceptions do not coincide with empirical findings, their existence helps to illuminate some of the problems encountered there. Interviewees were asked to comment on their perceptions of the relative

advantages and disadvantages of trying youth in adult courts. They were also asked to respond to questions about the specific procedures used in California and to offer suggestions for improvement. The following synopses of the interviews constitute the case study findings.

Perceived Effects on the Court System of Trying Youth as Adults

It is readily apparent that both juvenile and adult courts may feel repercussions from prosecuting youth in adult courts. Juvenile courts appear to sometimes falter as they attempt to meet dual responsibilities to both juveniles and the public. The internal contradictions are especially apparent when dealing with the more serious juvenile offenders. Criminal courts have also been the subject of discussion as public concern increases about violent crime and back logged court dockets.

When questioned about advantages or disadvantages to the court system, most interviewees stated that judicial remands permit the juvenile courts to remove youth who cannot benefit from juvenile treatment. This view was expressed across the state and by all occupational groups interviewed, especially by all the district attorneys. The underlying opinion is that juvenile courts should expend their limited resources on juveniles for whom their services are most appropriate.

Further, numerous respondents felt that remanded youth (in 1978) were held more accountable for their behavior in criminal courts, since the proceedings are open to the public. These interviewees stated that there is a "cloak of secrecy" which surrounds juvenile court proceedings. In their views, the use of official confidentiality hinders society's attempt to teach accountability to young offenders by shielding them from public censure. This latter view was most frequently made by the respondents in San Diego County (see "Data Summary" regarding the relatively high number of certifications from this county). It should be noted, however, that since January 1, 1981, juvenile court proceedings in California have been more readily opened to the public so that this criticism of the juvenile courts may be less relevant today.

One advantage to the adult courts which was noted was that remand allows codefendants who are both juveniles and adults to be tried together. This was seen as a means for saving the public the expense of two or more trials, as a guarantee that the same evidence and testimony would be presented, or as a more efficient use of court time.

On the other hand, roughly one-fourth of the respondents pointed out the disadvantages of prosecuting youth in adult courts. They cited increased criminal court case loads, the length of time to trial and judgment, and increased costs. It was particularly mentioned that the delays in remand cases make prosecution of these cases more difficult. Because criminal proceedings are preceded by juvenile court proceedings,

at least one district attorney's staff member stated that it is easier to lose witnesses and more difficult to present credible testimony. Prosecutors further indicated they view the speedier hearings in juvenile courts to be a major reason for not remanding cases. At least one district attorney also spoke of being bothered by the difficulty of getting what he considered to be appropriate sentences in adult courts, due to sympathy with the young defendants.

Perceived Effects on the Corrections System of Trying Youth As Adults

At a time when financial cutbacks are coupled with increasing demands for juvenile and adult corrections bed space, the effect of convicting youth in adult courts is of great importance to state planners and policy-makers. Complicating this situation is the states' efforts to comply with current federal directives to assure separation of juveniles from adult offenders while in confinement.

A few California respondents mentioned that the remand procedure may have some advantages to the juvenile corrections system. They cited the reduced number of occupants in local juvenile institutions, removal of "hardened" youth from environments in which they could possibly influence other less-sophisticated inmates, and concentration of resources on those youth most amenable to rehabilitation as juveniles. Most respondents mentioned no disadvantageous effects on the juvenile corrections system.

At the same time, no advantages were seen by California officials for the adult corrections institutions. Some expressed an opinion that remand contributed to overcrowding, although some other respondents noted that so few remanded youth are sent to adult facilities that this should not be a problem. Some concern was expressed about sexual and physical abuse of youth by older and more mature inmates in adult institutions. The problem was viewed in two distinct ways: the devastating effects on the youth themselves, and the administrative efforts and costs associated with attempts to prevent the assaults.

Perceived Effects on the Offenders of Being Tried as Adults

Since the Kent and Gault court decisions, increased attention has been directed toward youth rights and treatment in the juvenile justice system. Youth in adult courts are generally regarded as having greater due process protections than they can obtain in juvenile courts. At the same time, the criminal justice system has other drawbacks, particularly in terms of sanc-

tions. Interviewees were asked if they believed there were specific advantages or disadvantages (for youth whose cases could be tried in either system) to be tried as juveniles or adults.

The majority of respondents identified the availability of jury trials as the most important advantage of criminal trials to young offenders. Other advantages that were less frequently mentioned included greater procedural due process, greater chance of acquittal, the availability of bail or bond, and the likelihood of less severe sentences for lesser offenses. These advantages were cited consistently across occupational types and in all the counties visited.

The disadvantages mentioned centered around the problems resulting from the incarceration of younger offenders in DOC institutions. Many respondents felt that the mere chance of being committed to DOC, regardless of how infrequently such commitments occur, was the most important reason, from the youth's perspective, for remaining in the juvenile court. Interestingly, the respondents from Lassen County, a small, rural county, were nearly unanimous in noting this problem, while only half the respondents in large, urban counties saw it as a disadvantage to the youth.

The establishment of a permanent felony record was also viewed as a major disadvantage. Interviewees felt that once a youth acquired a criminal record, future sanctions would be more severe. That result would obviously be disadvantageous, from the youth's viewpoint. Finally, remand to criminal court, a few respondents stated, was symbolic of giving up; an admission that the juvenile justice system had failed to meet its objective. At the same time, they felt adult institutions did not have the range of rehabilitative programs that are needed for treatment. Remand, therefore, was definitely viewed as a means of terminating childhood and, in so doing, substituting punishment for treatment.

Perceived Effects on the Public of Trying Youth as Adults

With increased attention on the commission of crimes by juveniles, the effects of trying youth in adult courts are of great public interest. Considering that waiver legislation requires attention to both rehabilitation and public safety, it is important to understand its impact in both contexts, especially when the two may be at odds. Interviewees were asked to comment on how they believed remand cases affected the general community.

Approximately one-half of the respondents stated that they believed the remand process to be beneficial to the public because longer sentences were imposed by criminal courts. Some interviewees said that the public was safer and generally felt better when violent juveniles were processed as adults. It must be noted, however, that, in 1978, more than half of the offenses charged against youth who were certified to adult courts were for property and public order offenses. While 1978 sentencing data were not

available for these cases, 1976 and 1977 data indicate that less than half of the remanded youth convicted in those years received sentences of incarceration.

A few respondents stated that public trials enhanced the offenders' public accountability for their criminal behavior. As mentioned in the "Transfer Process" subsection above, juvenile court hearings are now presumed to be "public."

It should also be noted that several respondents argued that the public's perception of greater safety was mistaken; that the remand process had little impact, for a variety of reasons, on the rates of juvenile crime. The reason most frequently mentioned was that the youth may not, in fact, receive harsher sentences.

Most interviewees felt that there were no disadvantages to the public from the remand process, although a few individuals did state that the public would suffer in the long run. Because of the commingling of young offenders with hardened criminals, they believed that society was unwittingly enhancing subsequent criminal sophistication.

Perceptions of Factors to Be Considered in the Referral of Youth to Adult Courts

Many of the remand cases heard by the California Supreme Court since 1950 have focused on the factors to be considered in fitness hearings. The supreme court has, since 1967, directed that remand hearings go beyond the mere circumstances surrounding the offenses charged. Juvenile courts must consider past record, behavior patterns, and especially the youth's amenability to treatment within the juvenile system. The state legislature has moved in the same direction, so that four of the five remand factors specifically listed in the current statutes address characteristics of the youth and available resources.

When asked what factors are the most important to consider in deciding to try a youth in adult courts, the majority of respondents named the severity of the presenting offense and the youth's past record. Other factors receiving substantial comment included age, dangerousness, amenability to treatment, level of criminal sophistication, circumstances surrounding the offense, and the availability of appropriate services. It appears, therefore, that the respondents agree with the supreme court and the state legislature, that factors beyond the circumstances surrounding the crime itself should be considered before remands are ordered.

Perceptions of Needed Changes in the Referral of Youth to Adult Courts

As a law is implemented, its various repercussions become visible, some of which may have been impossible to predict. Similarly, changing events or opinions may make the legislated objectives questionable, thus precipitating a need for some redirection.

Respondents were asked for changes which they felt were needed to improve the present procedure. Over one-half of them felt that the present remand process in California was satisfactory and, therefore, recommended no changes. Among the remaining individuals, there was no consensus as to what changes should be made. One person favored a total revision of the juvenile code, which has not been done since the early 1960s. Others preferred to see a definite sentencing law enacted for juvenile courts with less discretion for release resting with the California Youth Authority. One respondent argued strongly that the juvenile justice system does not contain the solution to juvenile crime. Rather, more opportunities for everyone to lead productive lives were needed. It was felt that a healthier society is the only answer to the crime problem. Finally, the most occupationally identifiable proposal came from several of the district attorneys who proposed that the prescreening function be removed from probation officers and be given to the district attorneys.

SUMMARY AND CONCLUSIONS

It appears, from the Academy's interviews and other sources of information, that public attention on juvenile justice in California has shifted away from the issue of remand. Except for an occasional sensational juvenile crime case, most of the media and legislative attention at the time of writing was focused on juvenile court proceedings. This shift was brought on by such events as the case of 17 year old Fredrick Joseph G., which stimulated great controversy around the absence of jury trials and lower standards of proof in juvenile courts.[34]

While local commentators indicate the resolution of these issues will be in the direction of making juvenile court proceedings more like those in adult courts, it is not clear that this will have any impact on the state's remand procedures. It could be argued that, as juvenile courts become more like adult courts, the need for remand diminishes. However, our findings indicate that the reverse is more likely: the perceived legitimacy of trying some youth as adults, primarily due to the severity of offense and past record, is widespread and is not likely to change.

On the other hand, with the exception of a few respondents in San Diego County, respondents saw no need to expand the number of youth potentially subject to remand. However, reports of more recent trends--of juvenile gang-related crime in Los Angeles, in particular--may produce such public concern.

The new fitness procedures established by A.B. 3121 did result in an increase in the total number of certification of fitness hearings; in Los Angeles County alone, the number rose from 109 in 1976 to 456 in 1977. This appears to be consistent with the intent of the legislation, i.e., to establish more severe handling of serious juvenile offenders. The likelihood of conviction remained about the same, however. About half of the remanded youth who are convicted are likely to receive sentences of confinement.

It does not appear that the greater number of remands has resulted in a overcrowding in the corrections institutions. The situation regarding overcrowding dockets in adult courts is less clear. There was no clear consensus that overloading case loads are resulting, although criticisms of delays by some district attorneys suggest it may be a problem in some parts of the state. The increase in filings for remand noted above does indicate that the newer procedures "strengthen the hand" of district attorneys. The 1979 amendment, requiring the juvenile to prove his fitness to be tried as a juvenile, has increased the importance of the decision to file for remand and, therefore, the power and role of the district attorneys.

One result of California's certification procedures, which may or may not have been intended, has been great variation among counties in the offenses which resulted in youth being certified to adult courts. This may be taken as allowing for greater expression of local community standards. An example is the large percentage of remanded youth who were charged with drug or alcohol violations in San Diego, while the procedure is largely reserved for serious personal offenses in Los Angeles. Factors such as the number and types of juvenile offenses occurring in the counties, public pressure, and the stance taken by different courts or district attorneys toward repeat offenders also contribute to the variation around the state.

In any case, the issue of trying youth as adults in California is not, at present, a threat to the legitimacy of the juvenile court's function, as it has been in some other states. Making juvenile court proceedings more like those in adult court, and the new openness of juvenile court hearings, have probably contributed to diminishing current interest in the question.

FOOTNOTES

1. Statutes of California, Sessions Laws of 1903, Chapter XLIII.
2. Statutes of California, Juvenile Court Laws of 1909, Sections 2 and 17.
3. Statutes of California, Juvenile Court Laws of 1909, Section 18.
4. 1949 Laws, Section 834.
5. Statutes of California, 1975, Chapter 1266, Section 4.
6. Kent v. United States, 383 U.S. 541 (1966); People v. Dotson, 299 P.2d 875 (1956).
7. People v. Yaeger, 359 P.2d 261 (1961).
8. People v. Shipp, 382 P.2d 577 (1963).
9. People v. Dotson, 299 P.2d 875 (1956).
10. Jimmy H. v. Superior Court, 478 P.2d 32 (1970).
11. In re Harris, 434 P.2d 614 (1967).
12. Harris v. Procunier, 498 F.2d 576; cert. den. 95 S. Ct. 235 (1974), (overruling Powell v. Hocker, 453 F.2d 652).
13. Alfred B. v. Superior Court, 478 P.2d 37 (1970); Jimmy H. v. Superior Court, 478 P.2d 32 (1970).
14. Bryan v. Superior Court, 498 P.2d 1079 (1972); cert. den. 93 S. Ct. 1380.
15. Donald L. V. v. Superior Court, 498 P.2d 1098 (1972); 102 Cal. Rptr. 850.
16. People v. Chi Ko Wong, 557 P.2d 976 (1976).
17. In re Hurlic, 572 P.2d 57 (1977).
18. California Welfare and Institutions Code, Section 731.
19. California Welfare and Institutions Code, Section 1769.
20. California Welfare and Institutions Code, Section 602.
21. California Welfare and Institutions Code, Section 707(a).
22. California Welfare and Institutions Code, Section 707(a).
23. California Welfare and Institutions Code, Section 707(b).
24. California Welfare and Institutions Code, Section 707(b)(12).
25. Assembly Bill 1374, amending Section 676 of the California Welfare and Institutions Code.
26. California Welfare and Institutions Code, Section 707.1.
27. California Welfare and Institutions Code, Section 707.2.
28. California Welfare and Institutions Code, Sections 1770 and 1771.
29. California Welfare and Institutions Code, Sections 1780 through 1783.
30. Effective January 1, 1980, the Youth Authority Board became the Youthful Offender Parole Board. California Welfare and Institutions Code, Sections 1176 to 1178 and 1760.7.
31. California Laws Relating to Youthful Offenders, prepared by the Department of the Youth Authority of the State of California, 1979 edition.
32. "Juvenile Justice Digest," Washington Crime News Service, Vol. 19, No. 14, July 24, 1981, pp. 4-5.
33. Katherine S. Teilmann and Malcolm W. Klein, Assessment of the Impact of California's 1977 Juvenile Justice Legislation (University of Southern California, Social Science Research Institute, January 1979).
34. See The Bakersfield Californian, December 2, 1979, through December 6, 1979.

HAWAII PROFILE

ACKNOWLEDGMENTS

The Academy expresses its appreciation to the many state and local officials throughout Hawaii who helped us in our data collection efforts and provided the study with the necessary data.

METHODOLOGY

The data collection took place by telephone from the Academy. The juvenile courts were contacted for data on judicial waivers. Because of the small number of counties (four) and the availability of data, all counties were contacted for Phase II data on age, sex, race, offenses, dispositions, and sentences of youth judicially transferred to adult courts, as well as frequency of judicial waivers (Phase I data).

COURT ORGANIZATION

Circuit courts are the highest courts of general jurisdiction in Hawaii. There are four circuits, each corresponding to a county. The circuit courts have jurisdiction over all felony cases. Criminal misdemeanor and traffic cases are transferred to the circuit courts when jury trials are requested.

The four district courts in Hawaii, which have 18 judges, have limited jurisdiction in criminal matters. This jurisdiction applies to all criminal misdemeanors not involving trial by jury, and preliminary hearings in some felony cases. District courts also have jurisdiction in adult traffic cases and county ordinance violations.

Juvenile jurisdiction is exercised by family courts, which are divisions of each county's circuit court.[1] District court judges may also be assigned to hear juvenile matters on an individual basis. The family courts also have jurisdiction over juvenile traffic matters.

An overview of Hawaii's courts by their jurisdiction over juveniles appears below.

HAWAII: COURT JURISDICTION OVER JUVENILES

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Family Courts (Division of Circuit Courts)	Circuit Courts	Family Courts (Division of Circuit Courts)

TRANSFER PROCESS

In Hawaii, initial juvenile court jurisdiction extends to 18 years of age.[2] Juveniles 16 years old or older, charged with a felony, may be judicially waived from the family courts to the criminal division of the circuit courts. In order for a waiver to take place, a complaint must be filed, an investigation undertaken, and a petition then authorized by the court.[3] The statutes are silent as to which parties may initiate the petition.

The courts must also find at the hearing that juveniles are not committable to an institution for the mentally ill or mentally retarded, not amenable to treatment as a juvenile, or that the safety of the community does not require continued restraint beyond the expiration of juveniles' minority. In order to make these findings, courts must make a full investigation but, until 1980, no particular factors had to be considered by judges.[4] Once transferred to adult courts, there is no provision for youth to be waived back to juvenile courts. There is no statutory authority for juveniles to request trial as adults.

Effective June 18, 1980, legislation was passed making a waiver order nonappealable until after all trials are completed on the charges on which the waiver occurred.[5] This was designed to prevent long delays previously experienced between the time of waiver and the time of trial.

Effective the same date, legislation also established the following criteria for judicial consideration in deciding whether to waive.[6]

(1) The seriousness of the alleged offense.

(2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

(3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

(4) The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime.

(5) The sophistication and maturity of the minor as determined by consideration of the minor's home, environmental situation, emotional attitude, and pattern of living.

(6) The record and previous history of the juvenile, including previous contacts with the family court, other law enforcement agencies, or courts in other jurisdictions, prior periods of probation to this court, or prior commitments to juvenile institutions.

(7) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services, and facilities currently available to the family court.

(8) All other relevant matters.

CASE LAW SUMMARY

A search of relevant case law dating back to 1950 revealed several noteworthy cases which are summarized below.

In the case of In re Castro, the Hawaii Supreme Court determined that a petition required under state law to commence a juvenile delinquency proceeding need not be filed prior to a preliminary decision by the juvenile judge to consent to criminal trial of a juvenile accused of a felony.[7] The petition is only required in cases where the trial court has not preliminarily indicated that it will waive jurisdiction. This 1960 case further held that there was no statutory requirement that the court base a waiver of jurisdiction upon a "full investigation," or even that there be findings of fact. The powers and duties of the juvenile court judge in consenting to criminal trial were further elaborated upon in State v. Tominaga.[8] Neither state law nor the federal constitution require the juvenile judges to hold a formal hearing prior to giving their consent. As long as the judges do not act arbitrarily or capriciously, the judges' actions allowing criminal trial to commence will be upheld. The Hawaii Supreme Court, noting the severity of the crimes charged, approved waiver of jurisdiction in this case.

By 1968, the court had reversed its position on the requisites for a proper waiver of juvenile court jurisdiction. The mandates of Kent v. U.S. were held to require a hearing, a full investigation, documented findings of fact, and a statement of reasons why the waiver was ordered.[9] Juveniles confronted with the possibility of waiver to adult trial are entitled to assistance of counsel. (Confer, In the Interest of John Doe I, and In the Interest of John Doe III).[10]

In 1968, the court determined that a waiver order was appealable since it determined an ultimate right to litigants', namely, juveniles' right to noncriminal process (In the Interest of John Doe I).[11]

The court held In the Interest of Doe, that minors have no constitutional right to an automatic stay of execution of waiver order while an appeal therefrom is taken.[12] A waiver order does not involve an adjudication of guilt and hence is not the functional equivalent of a criminal sentence. A stay may be granted only under conditions where it is necessary to preserve fundamental fairness and judicial efficiency. Courts faced with petitions for stay of execution of a waiver order must weigh the opposing interests in exercising its discretion to grant or deny the stay.

A recent case, In the Interest of Dinson, dealt with the introduction of out-of-court information relative to juveniles' past history in the form of third-party information included in probation officers' reports.[13] The court approved the use of such information in waiver proceedings, noting that constitutionally mandated criminal procedural rights, such as the right to confront witnesses, do not apply in a nonadjudicatory proceeding. Juveniles, however, retain the right to inspect reports introduced into the proceeding and may attempt to rebut any information contained therein. Additionally, where information forming the basis of waiver orders prove on appeal to be of an untrue or unreliable nature, the orders must be overturned.

CORRECTIONS INFORMATION

The Corrections Division of the Department of Social Services and Housing is responsible for all corrections institutions in the state. Any persons over the age of 18 convicted of felonies or misdemeanors can be committed by the courts to the director of social services and placed within one of the corrections facilities. The minimum length of sentence for felony offenders is fixed by the Hawaii Paroling Authority not more than six months after the offenders have been sentenced and committed.

The state-level juvenile institution, the Hawaii Youth Correctional Facility, receives and supervises juvenile offenders from age 12 to age of majority, 18. Juveniles may be held until their 19th birthday, if so ordered by the court.

Whenever it is found that the continued confinement of juveniles at the Hawaii Youth Correctional Facility is a threat to the discipline of the facility

or injurious to the other juveniles, hearings can be held to determine if the youth, if 14 years of age or older, should be imprisoned at an adult corrections facility for a part of or the remainder of their term. If it is found that the youth's conduct gives reasonable proof of reformation, or for any other reason, judges of the family courts can order the discharge of the juvenile from the adult corrections facility or the transfer back to the Hawaii Youth Correctional Facility.[14] Juveniles convicted as adults can be committed to the director of social services for placement in an adult corrections facility or a juvenile facility.[15]

Transfer from juvenile institutions to adult institutions, or from adult institutions to juvenile institutions, are possible under the Hawaii revised statute.

STATE DATA SUMMARY

Judicial waiver is the only provision by which juveniles can be waived to adult criminal courts in Hawaii. Juveniles can be waived if they are at least 16 years old and charged with a felony.

Table 12-1 indicates the number of judicial waivers that occurred in each of Hawaii's four counties in 1978 along with the total estimated juvenile populations of those counties. In 1978, only 15 children were waived in Hawaii for a statewide waiver rate of 0.96 per 10,000 children eight to 17 years old. Eleven of the 15 came from the largest jurisdiction, Honolulu County, which contains 81 percent of the state's juvenile population. The other three counties waived only one or two cases each.

TABLE 12-1. HAWAII: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISMS)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Hawaii	13,689	1	0.731
Honolulu	126,129	11	0.872
Kauai	6,109	1	1.637
Maui	10,148	2	1.971
Total	156,075	15	0.961

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Due to the small number of counties and availability of data, Phase II information were gathered for all counties in the state.

Table 12-2 gives a demographic breakdown by the age, sex, and race of the 15 juveniles judicially waived. The table indicates that all 15 were age 17. Fourteen were males, and one was female. Two waived youth were white, while the remaining 13 were minority youth.

TABLE 12-2. HAWAII: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age		Sex		Race	
		16	17	Male	Female	White	Minority
Hawaii	1	0	1	1	0	0	1
Honolulu	11	0	11	10	1	2	9
Kauai	1	0	1	1	0	0	1
Maui	2	0	2	2	0	0	2
State Total	15	0	15	14	1	2	13

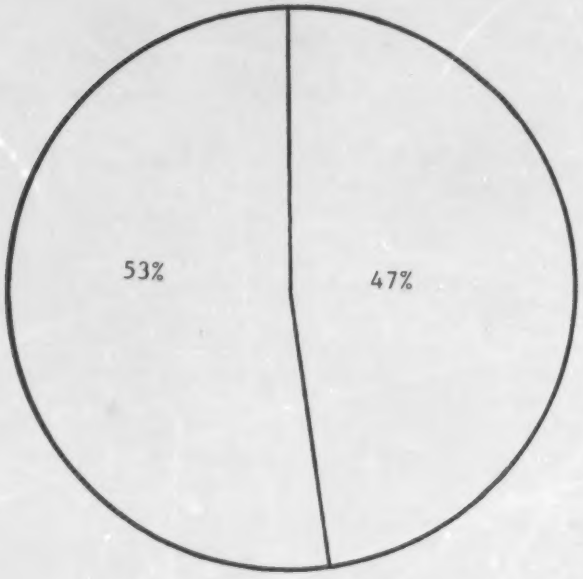
Table 12-3 shows the distribution of judicial transfers of juveniles to adult criminal courts by categories of offense. Seven of the 15 transfers (47 percent) were personal offenses, including rape and robbery, while eight (53 percent) were for property offenses of burglary and auto theft. (Also see Figure 12-1.)

TABLE 12-3. HAWAII: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]									
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General
Hawaii	1	0	0	0	0	0	0	1	0	0	0
Honolulu	11	0	0	6	0	0	0	5	0	0	0
Kauai	1	0	1	0	0	0	0	0	0	0	0
Maui	2	0	0	0	0	0	0	1	1	0	0
State Total	15	0	1	6	0	0	0	7	1	0	0

a. Only most serious offense per individual listed.

FIGURE 12-1. HAWAII: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	47%
Property	53%
Public Order	0%
Other General	0%

N= 15

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represents 47 percent of all offenses in the state.

Table 12-4 represents the judgments of juvenile cases referred to adult criminal courts. Thirteen of the 15 transferred cases (87 percent) were found guilty, while two (13 percent) were found not guilty.

TABLE 12-4. HAWAII: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments			
		Not Guilty	Dismissed	Guilty	Other
Hawaii	1	0	0	1	0
Honolulu	11	2	0	9	0
Kauai	1	0	0	1	0
Maui	2	0	0	2	0
State Total	15	2	0	13	0

Table 12-5 shows the sentences received by the 13 youth found guilty. Seven (54 percent) were placed on probation, five (38 percent) were sent to state adult corrections facilities, and the remaining case in the "Other" category is on appeal.

TABLE 12-5. HAWAII: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVER TO ADULT COURTS (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Hawaii	1	0	0	0	1	0	0
Honolulu	9	0	6	0	3	0	0
Kauai	1	0	0	0	0	0	1
Maui	2	0	1	0	1	0	0
State Total	13	0	7	0	5	0	1

Table 12-6 reflects the sentence length of the five juveniles sentenced to incarceration. One received a maximum sentence of between five to ten years, while another juvenile received a maximum sentence over ten years. The sentence length of the remaining three were unknown.

TABLE 12-6. HAWAII: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVER TO ADULT COURT (BY COUNTY AND MAXIMUM SENTENCE LENGTH) IN 1978

County	Total Confinements	Sentence Maximums								
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death	Unknown
Hawaii	1	*	*	*	*	*	*	*	*	1
Honolulu	3	*	*	*	*	1	*	*	*	2
Maui	1	0	0	0	1	0	0	0	0	0
State Total	5	0	0	0	1	1	0	0	0	3

* denotes Not Available.

Table 12-7 provides a summary of the number of cases reported in the preceding tables concerning total waivers to adult courts, the number of cases selected for Phase II investigation, and findings concerning the conviction and confinement practices applicable to these youth. In all, 15 youth were referred to adult courts in 1978 through judicial waivers. Thirteen of these waivers resulted in conviction and five of these convicted youth received orders of confinement.

TABLE 12-7. HAWAII: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 12-1)	15
Total Referrals Selected for Phase II (Table 12-2)	15
Total Referrals Resulting in Convictions (Table 12-5)	13
Total Convictions Resulting in Sentences of Confinement (Table 12-6)	5

In summary, only 15 juveniles were waived to adult criminal courts in 1978. Of these youth, 73 percent came from the largest county, Honolulu. All of these youth were 17 years old, and all but one were male. Two of the waived youth were white, with the remaining 13 belonging to racial minorities. The offenses involved in these cases were evenly divided between those against persons and property, and 87 percent of the waivers resulted in guilty findings. Of these 13 guilty findings, 54 percent received probation and 38 percent were committed to adult corrections institutions. One of the confined youth received a maximum sentence of over five to ten years, and one was given a maximum sentence of over ten years of confinement. The length of confinement for three youth committed to adult corrections facilities were unknown.

FOOTNOTES

1. Hawaii Revised Statutes, Section 571-3.
2. Hawaii Revised Statutes, Section 571-11.
3. Hawaii Revised Statutes, Section 571-22.
4. Supra. Footnote #3.
5. Hawaii Revised Statutes, Section 571-22, as amended by addition of a following section not specified in the legislation, which was Act 207 (H.B. 1873-80) of the 1980 Legislature.
6. Hawaii Revised Statutes, Section 571-22(b), as amended by Act 303 (S.B. 1851-80) of the 1980 legislature.
7. In re Castro, 355 P.2d 46, 44 Haw. 455 (1960).
8. State v. Tominaga, 372 P.2d 356 (1962).
9. Kent v. U.S., 383 U.S. 541 (1966).
10. In the Interest of John Doe I, 446 P.2d 564, 50 Haw. 620 (1968); In the Interest of John Doe III, 446 P.2d 561, 50 Haw. 613, (1968).
11. In the Interest of John Doe I, 444 P.2d 459 (1968).
12. In the Interest of Doe, 558 P.2d 483 (1976).
13. In the Interest of Dinson, 574 P.2d 119 (1978).
14. Hawaii Revised Statutes, Sections 352-27 and 352-28.
15. Hawaii Revised Statutes, Section 352-11.

IDAHO PROFILE

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The Academy thanks Judy Thomas and the Idaho League of Women Voters for their assistance in our data collection efforts and also Michael P. Nugent, Research Analyst, Idaho Legislative Council, and Pam Roylance, Juvenile Justice Specialist, Law Enforcement Planning Commission for their assistance in reviewing the Idaho profile. In addition, the Academy expresses its appreciation to the many other state and local officials who provided the study with necessary information.

METHODOLOGY

The Idaho League of Women Voters conducted telephone interviews throughout Idaho in order to compile the data on juveniles waived to adult courts for trial and juveniles routinely handled in adult courts for traffic violations. Initial contacts for data collection were made with the juvenile courts which in most cases were able to provide necessary information. Where additional contacts were required, they were made with prosecutors, and, if necessary, with adult courts. Data on occurrence of judicial waivers were compiled for all 44 counties in Idaho. Phase II data on age, sex, race, offenses, dispositions, and sentences of youth judicially transferred to adult courts were sought in the most populous ten percent of the counties and those counties reporting five or more transfers to adult courts during 1978. Juvenile traffic data were sought in all counties, but were largely unavailable.

COURT ORGANIZATION

In Idaho, the district courts are the highest courts of general jurisdiction. The district court system consists of seven districts with a statewide total of 67 judges sitting in court locations in the 44 counties. The district courts are the highest level of trial courts to which juvenile matters may be waived.

The Magistrate division of the district courts, or in some cases the general district court, hereafter referred to as juvenile courts, have jurisdiction over proceedings involving individuals under 18. There are a total of 66 judges in the magistrate divisions sitting in the 44 counties. Traffic,

watercraft, and fish and game violations are also generally handled in the adult sessions of magistrate divisions and juvenile cases are combined with adult cases.

An overview of Idaho's courts by their jurisdiction over juveniles appears below.

IDAHO: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
Juvenile Sessions of Magistrate Divisions of District Courts or District Court	District Courts	Adult Sessions of Magistrate Divisions of District Courts

a. Also includes fish and game, and watercraft violations.

TRANSFER PROCESS

In Idaho, initial juvenile court jurisdiction extends to age 18.[1] There are two methods by which juveniles can be subjected to prosecution in Idaho's adult courts.[2]

Judicial Waiver

Juveniles 15 years old or older can be judicially waived for any offense. The motion to waive may be initiated by the prosecuting attorney, the juvenile, or the courts themselves.[3] In considering whether to waive, the courts must consider the seriousness of the offense, the manner in which it was committed, whether it was against persons or property, the child's maturity and history, and the likelihood of rehabilitation.[4]

Effective 1980, the state or the youth can appeal to district courts the magistrates' decisions on waiver of juvenile jurisdiction.[5]

Excluded Offenses

The second mechanism by which youth may come under the jurisdiction of the adult courts is through excluded offense provisions which generally include traffic, watercraft, and fish and game violations. These youth's cases are heard in the adult, rather than the juvenile, sessions of magistrate courts. However, the prosecuting attorney may bring under the juvenile code the following offenses:

- Operation of a motor vehicle with a suspended or revoked license or permit.
- Operation of a motor vehicle or watercraft while under the influence of intoxicating liquor or drugs.
- Operation of a motor vehicle or watercraft in a careless manner.
- Any motor vehicle, watercraft, or fish and game violation having been convicted of any three motor vehicle, watercraft, or fish and game violations regardless of where the violation occurred.[6]

In 1981 Idaho excluded youth 14 years old or older charged with murder, attempted murder, robbery, rape, mayhem, assault or battery with intent to commit any of the above offenses, from juvenile court jurisdiction. These cases will be charged directly in criminal courts.

CASE LAW SUMMARY

A search for case law back to 1950 for cases relevant to youth in adult courts indicates that the Idaho Supreme Court did not become active in the waiver area until 1972 when it decided State v. Gibbs. This case set forth the guidelines to be followed by courts in waiver proceedings.[7] The court settled upon three factors, any one of which may justify waiver of juveniles to adult trial. These factors are: (1) the emotional or mental maturity of children, (2) the exhaustion of prior efforts at rehabilitation without perceptible effect on the children's behavior, or (3) a showing that the children, though treatable, will be dangerous to the public when released at the age of 21 or that they may disrupt the rehabilitation of other children during confinement. Applying this standard, the court held that a valid waiver must be based on a specific finding supported by evidence obtained in the full investigation required by statute, and that the children and their parents have a due process right to adequate notice of the impending waiver hearing.[8]

In State v. Tipton, it was held that a waiver order is a final appealable order.[9] Failure to appeal the waiver to district court prior to the onset of criminal proceedings precludes a later appeal based upon defects in the waiver proceedings. (See also State v. Harwood.[10])

In Wolf v. State, the court also held that a probable cause finding is not required under Idaho law in conjunction with the juvenile waiver hearing.[11]

The case of Hayes v. Gardner involved the denial of a hearing pursuant to the Youth Rehabilitation Act.[12] The court held that the failure to hold the hearing constituted a violation of the youth's right to a full and fair waiver hearing as mandated by Gibbs. Criminal proceedings are barred by law until such time as the hearing has been conducted and jurisdiction has been waived. Thus, the prosecutor may not evade the effect of the statute by commencing criminal proceedings against youth in the first instance. The intent of the legislature, according to the court, was that the judiciary, not the prosecutor, has the power to decide whether youth are to be tried as adults, and then only after a full hearing and investigation. The court held also that both district courts and the magistrate divisions of district courts may hear cases falling within the Youth Rehabilitation Act.

CORRECTIONS INFORMATION

The Department of Corrections is responsible for adult institutions. Adult offenders and youth tried as adults who are convicted of a felony are generally committed to an institution under the Department of Corrections for an indeterminate sentence (no minimum). There are two exceptions to the indeterminate sentence ror adult felons: (1) persons convicted of a felony may be sentenced for a fixed period of time of not less than two years and not more than the maximum provided by law for the specific felony (passed 1977), and (2) the Idaho constitution was amended in 1978 providing that the legislature could enact mandatory minimum sentences for any crime and any sentence imposed under this provision shall not be reduced. In 1979, the legislature passed Chapter 19, Section 2520A of the Idaho Code, which provides:

> MANDATORY MINIMUM SENTENCES. Every person convicted of any felony enumerated in section 2520, Idaho Code, and who uses, threatened or attempted to use a firearm or other deadly weapon or instrument while committing the felony, and who has been convicted of a previous felony in another state or if within Idaho a previous felony as enumerated in section 2520, Idaho Code, within a ten-year period prior to the commission of the subsequent felony, in substitute for the penalty prescribed in section 2520, Idaho Code, shall be imprisoned in the state penitentiary for a mandatory minimum period of not less than three years or for such greater period as the court may impose up to a maximum of fifteen years. This additional sentence shall run consecutively to any other sentence imposed for the enumerated felony or felonies. The mandatory minimum period of three years incarceration shall be served without eligibility for parole less any allowance for goodtime.

It is the opinion of most legal experts that the Pardon and Parole Commission cannot grant parole before the expiration of the mandatory minimum sentence, less any allowance for goodtime.

The juvenile courts cannot commit juveniles directly to an institution, but can commit instead to the Department of Health and Welfare, with or without a recommendation for placement. The department may then place children in the Youth Services Center, community-based group homes, foster homes, or provide supervision in the parental home. Youth are subject to juvenile law up to the age of 18 with no minimum sentence, and jurisdiction of the department may continue up to the 21st birthday. The present Idaho law does not distinguish between "status" offenses and those which would be crimes if committed by an adult.

When youth are tried in juvenile court, the judge maintains the discretion over commitment to the Department of Health and Welfare or a probation period. Often, individuals are sent to the Youth Services Center, which is currently a medium security juvenile facility with plans for a maximum security section for troublesome residents.

If youth are tried as adults and convicted, they are normally sent to the North Idaho Correctional Institution which houses first offenders, young offenders, and those with short-term sentences. If youths are convicted for capital offenses, they would probably be housed in the Idaho State Penitentiary. While However, district courts may commit to the Department of Health and Welfare a person under 21 years of age convicted of a felony. The commitment will be for an indeterminate period not to exceed the twenty-first birthday.[13] While there are no provisions for administrative transfers to an adult institution from a juvenile facility, it is possible to administratively transfer individuals from the North Idaho Correctional Institution to the Youth Services Center. However, for all practical purposes the provision is not used. The State Board of Corrections:

> ... May transfer to the custody of the State Board of Health and Welfare any person under 18 years of age sentenced to the Idaho State Penitentiary for such disposition within its power...which will serve the needs of the person and best protect the interest of the public, including the granting of a final discharge.[14]

STATE DATA SUMMARY

Judicial waiver is the only mechanism by which juveniles can be referred from juvenile magistrate courts to adult district courts in Idaho. Juveniles must be at least 15 years of age and may be charged with any offense. As noted earlier, traffic offenses are automatically excluded from juvenile jurisdiction to adult jurisdiction of the magistrate courts.

Table 13-1 indicates the number of judicial waivers that occurred in each of Idaho's counties in 1978 along with the total estimated juvenile populations of those counties. In 1978, there were 28 juveniles transferred through this process. Sixty-one percent (27) of the 44 counties had no waivers in 1978. Of

the 28 juveniles waived, four occurred in the largest county, Ada, the largest number of juveniles waived in any one county.

TABLE 13-1. IDAHO: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Ada	23,832	4	1.678
Adams	637	0	0.000
Bannock	9,780	1 est	1.022
Bear Lake	1,215	0	0.000
Benewah	1,294	0	0.000
Bingham	7,073	2 est	2.828
Blaine	1,297	0	0.000
Boise	372	0	0.000
Bonner	3,719	2	5.378
Bonneville	12,137	0	0.000
Boundary	1,243	1	8.045
Butte	640	0	0.000
Camas	182	1	54.945
Canyon	12,935	2	1.546
Caribou	1,829	0	0.000
Cassia	3,716	3	8.073
Clark	225	0 est	0.000
Clearwater	1,837	0	0.000
Custer	557	0	0.000
Elmore	3,795	0	0.000
Franklin	1,774	1	5.637
Fremont	2,035	1 est	4.914
Gem	2,014	1	4.965
Gooding	1,758	0	0.000
Idaho	2,679	0	0.000
Jefferson	2,798	0	0.000
Jerome	2,481	2	8.061
Kootenai	8,075	3 est	3.715
Latah	3,679	0	0.000
Lemhi	1,225	0	0.000

TABLE 13-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Lewis	714	0	0.000
Lincoln	619	0	0.000
Madison	2,622	1	3.814
Minidoka	3,800	1	2.632
Nez Perce	5,440	1	1.838
Oneida	534	0	0.000
Owyhee	1,466	0	0.000
Payette	2,582	0	0.000
Power	1,207	1	8.285
Shoshone	3,769	0	0.000
Teton	569	0	0.000
Twin Falls	8,108	0	0.000
Valley	693	0	0.000
Washington	1,370	0	0.000
Total	150,326	28 est	1.863

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 13-2 reflects the relationship between Phase I and Phase II counties. In Idaho, the four Phase II counties represented 39 percent of the total juvenile population. The seven transfers which occurred in these counties represented 25 percent of the total number of transfers for the state. Bonneville is the only Phase II county that transferred no juveniles in 1978. There does not seem to be a significant correspondence between population and rate of juveniles waived.

TABLE 13-2. IDAHO: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	150,326	44	28
Selected for Phase II Investigation	58,684	4	7
Percentage of State Selected for Phase II Investigation	39%	9%	25%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Table 13-3 gives a demographic breakdown, including age, sex, and race, of those juveniles judicially waived in the Phase II counties. All juveniles waived were 16 years of age or older (three were 16, four were 17), all were males and 71 percent (five) were white youth.

TABLE 13-3. IDAHO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age			Sex		Race	
		0-15	16	17	Male	Female	White	Minority
Ada	4	0	1	3	4	0	3	1
Bannock	1	0	1	0	1	0	1	0
Bonneville	0	0	0	0	0	0	0	0
Canyon	2	0	1 est	1 est	2	0	1	1
State Phase II Total	7	0	3	4	7	0	5	2

Table 13-4 indicates that five out of the seven charges (71 percent) were offenses against persons (murder, manslaughter, robbery, aggravated assault), and two (29 percent) were property offenses (burglary). Figure 13-1 graphically illustrates this offense information by percentage.

TABLE 4

TABLE 13-4. IDAHO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]									
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General
Ada	4	2	0	1	0	0	0	1	0	0	0
Bannock	1	0	0	0	0	1	0	0	0	0	0
Canyon	2	0	0	1	0	0	0	1	0	0	0
State Phase II Total	7	2	0	2	0	1	0	2	0	0	0

a. Only most serious offense per individual listed.

Table 13-5 represents the dispositions of juveniles waived to adult court in Phase II counties. All seven cases resulted in convictions.

TABLE 13-5. IDAHO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments			
		Not Guilty	Dismissed	Guilty	Other
Ada	4	0	0	4	0
Bannock	1	0	0	1	0
Canyon	2	0	0	2	0
State Phase II Total	7	0	0	7	0

FIGURE 13-1. IDAHO: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978

Offenses[a]

Personal	71%
Property	29%
Public Order	0%
Other General	0%

N= 7

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 71 percent of all offenses in the Phase II counties.

Table 13-6 shows the sentences of those youth found guilty. All seven youth were sentenced to incarceration at state adult corrections facilities.

TABLE 13-6. IDAHO: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Ada	4	0	0	0	4	0	0
Bannock	1	0	0	0	1	0	0
Canyon	2	0	0	0	2	0	0
State Phase II Total	7	0	0	0	7	0	0

Table 13-7 reflects the sentence duration of those youth sentenced to state adult corrections institutions. Two of these youth received maximum sentences of one year or less, two received maximum sentences of over three to five years, one was given a maximum sentence between five and ten years, and two received maximum terms of over ten years.

TABLE 13-7. IDAHO: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN PHASE II COUNTIES (BY MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Ada	4	0	0	2	0	2	0	0	0
Bannock	1	0	0	0	1	0	0	0	0
Canyon	2	2	0	0	0	0	0	0	0
State Phase II Total	7	2	0	2	1	2	0	0	0

Table 13-8 provides a summary of the number of judicial waiver cases reported in the preceding tables, the number of cases selected for Phase II investigation, and findings concerning the conviction and confinement practices applicable to those youth. In total, 28 youth were referred to adult courts in 1978 through judicial waivers. All seven cases which were further investigated under Phase II data collection procedures were convicted and confined.

TABLE 13-8. IDAHO: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 13-1)	28
Total Referrals Selected for Phase II (Table 13-3)	7
Total Referrals Resulting in Convictions (Table 13-6)	7
Total Convictions Resulting in Sentences of Confinement (Table 13-7)	7

In summary, Phase II data collection revealed that all youth waived to adult court were males 16 or 17 years of age, and that 71 percent of them were white. Five of the seven offenses discovered in Phase II data collection were against persons, with remaining offenses being against property. All seven youth were convicted, and confined in adult corrections facilities, five of them receiving maximum sentences of over three years.

Routinely Handled Traffic Offenses

When juveniles violated an Idaho traffic ordinance in 1978, the hearings routinely took place in adult sessions of magistrate courts. This section presents estimated information, by county, on the number of youth heard in adult courts due to routine traffic offenses. Eight of Idaho's 44 counties provided these estimates, with the information being unavailable from the remaining 36 counties. Table 13-9 displays the estimates which were received. Approximately 3,765 youth were heard in adult courts in 1978 due to traffic offenses among the eight reporting counties.

TABLE 13-9. IDAHO: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Ada	23,832	*
Adams	637	*
Bannock	9,780	*
Bear Lake	1,215	*
Benewah	1,294	*
Bingham	7,073	*
Blaine	1,297	*
Boise	372	500 est
Bonner	3,719	*
Bonneville	12,137	*
Boundary	1,243	*
Butte	640	*
Camas	182	55 est
Canyon	12,935	2,000 est
Caribou	1,829	*
Cassia	3,716	*
Clark	225	*
Clearwater	1,837	*
Custer	557	*
Elmore	3,795	*
Franklin	1,774	284 est
Fremont	2,035	*
Gem	2,014	*
Gooding	1,758	*
Idaho	2,679	*
Jefferson	2,798	500 est
Jerome	2,481	*
Kootenai	8,075	*
Latah	3,679	*
Lemhi	1,225	*
Lewis	714	*
Lincoln	619	1
Madison	2,622	*
Minidoka	3,800	*
Nez Perce	5,440	*

TABLE 13-9. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Oneida	534	*
Owyhee	1,466	*
Payette	2,582	*
Power	1,207	*
Shoshone	3,769	*
Teton	569	400 est
Twin Falls	8,108	*
Valley	693	25
Washington	1,370	*
Total	150,326	3,765 est

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

FOOTNOTES

1. Idaho Code, Chapter 16, Sections 1802(c).

2. Idaho Code, Chapter 16, Section 1806.

3. Idaho Code, Chapter 16, Section 1806(2).

4. Idaho Code, Chapter 16, Section 1806(8).

6. Idaho Code, Chapter 16, Section 1803(2).

5. Senate Bill 1290, passed in 1980.

7. State v. Gibbs, 500 P.2d 209 (1972).

8. The factors to be considered prior to waiving juvenile court jurisdiction and the process to be observed by the court were codified in the Youth Rehabilitation Act, Idaho Code, Chapter 16, Section 1806, as amended by 1977 Chapter 165, Section 2, p. 427.

9. State v. Tipton, 587 P.2d 305, 99 Idaho 670 (1978).

10. State v. Harwood, 572 P.2d 1228, 98 Idaho 793 (1977).

11. Wolf v. State, 583 P.2d 1011, 99 Idaho 476 (1978).

12. Hayes v. Gardner, 504 P.2d 810, 95 Idaho 137 (1972).

13. Idaho Code, Chapter 16, Section 16-1835.

14. Idaho Code, Chapter 16, Section 1838.

MONTANA PROFILE

ACKNOWLEDGMENTS

The Academy thanks Steve P. Nelsen, Chief, Bureau of Juvenile Justice, Board of Crime Control, for his assistance in the data collection effort in Montana and for reviewing the Montana profile. The Academy also appreciates the many other state and local officials who provided us with the necessary data.

METHODOLOGY

In Montana, the data on judicial waivers to adult court was received from the Board of Crime Control. Attempts to verify the single state reported judicial waiver by contacting county prosecutors and local agencies were unsuccessful. The data on minor offenses were compiled by Academy staff who conducted telephone interviews with county agencies. Information on juveniles tried in adult courts for traffic, alcohol, and conservation violations were requested in the most populous 20 percent of the counties.

COURT ORGANIZATION

The courts of highest general jurisdiction for Montana are the district courts. There are 19 district courts, serving 56 counties. Minor criminal cases are heard in the justice, municipal, and police courts.

All juvenile delinquency cases are heard in youth courts (hereafter referred to as juvenile courts) of the district courts. Each judicial district of the state has at least one judge of the juvenile court. If the case is transferred to criminal court, it will be heard in the criminal division of district court. The judges and trial facilities are frequently the same for the juvenile courts and the criminal divisions. Juvenile courts share jurisdiction with the justice, municipal, and police courts over juveniles charged with traffic, fish and game, and alcohol violations.

An overview of Montana's courts by their jurisdiction over juveniles appears below.

MONTANA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
District Courts (Youth Courts)	District Courts (Criminal Divisions)	Justice Courts Municipal Courts Police Courts District Courts (Youth Courts)

a. Also includes fish, game, and alcohol violations.

TRANSFER PROCESS

The maximum age of juvenile court jurisdiction in Montana extends to age 18 and there are two ways in which juveniles may be prosecuted in adult courts.[1]

Judicial Waiver

First, there may be a judicial waiver of jurisdiction when youths 16 or older commit offenses including criminal homicide, arson, aggravated assault, robbery, burglary or aggravated burglary, sexual intercourse without consent, aggravated kidnapping, possession of explosives, or criminal sale of dangerous drugs for profit.[2]

Court attorneys may initiate the request that the case be transferred to criminal courts and hearings are held in juvenile courts to determine whether the cases should be transferred.[3] Juvenile judges must find reasonable grounds to believe that (1) the delinquents committed the alleged act; (2) the seriousness of the offenses and the protection of the community require treatment of the youth beyond that afforded by the juvenile facilities; and (3) that the offenses were committed in an aggressive, violent, or premeditated manner.

Further, in making decisions to waive jurisdiction, courts must consider the sophistication and maturity of youth, their previous record and history,

the prospects for adequate protection of the public, and the likelihood of the youth's rehabilitation through the procedures, services, and facilities currently available to youth courts. The courts must set forth their findings of reasons for waiver and transfer.[4] Once transfer decisions have been made, there is no statutory authority for the criminal division to waive youth back to juvenile court.

Concurrent Jurisdiction

Second, juvenile courts share jurisdiction with the justice, municipal, and police courts over all alcoholic beverage, traffic, and fish and game violations. In some cases, the urban counties rely heavily on these lower courts for dealing with these offenses. Most rural counties rely on the youth court of the district courts.[5]

CASE LAW SUMMARY

A search of Montana case law back to 1950 revealed that the scope of the juvenile court's jurisdiction have been questioned in two cases decided by the Montana Supreme Court. In State ex rel. Dahl v. District Court of Fourth Judicial District (of the County of Missoula), the supreme court held, in interpreting previous statutes, that since the enactment of the act establishing juvenile courts, a child under the age of 16 can never be tried in criminal court. The language in the act had declared that all previous acts in conflict with the present law were repealed.[6] One year later, in State ex rel. Keast v. District Court of Fourth Judicial District, the court interpreted the statutory definition of "delinquent child" to mean that juveniles who are over 16 and charged with specifically enumerated crimes shall be criminally prosecuted, but those juveniles of the same age charged with offenses not named in the definition must be handled in juvenile court.[7]

Prior to the enactment of the Montana Youth Court Act in 1974, Montana law required that a juvenile court, prior to waiving its jurisdiction, must find probable cause and then determine that the waiver would serve the best interests of the state.[8] The supreme court upheld this statute in Lujan v. District Court of Fourth Judicial District.[9] In that case the petitioner had alleged that Kent v. United States necessitated a determination of unconstitutionality, but the court held that the petitioner had failed to demonstrate an abuse of discretion by the juvenile court.[10] Two years later, the supreme court, in In re Stevenson, held that while the Youth Court Act required that all of the statutorily specified factors concerning the crime and the juvenile's amenability to treatment be considered, the youth court

need not resolve all of these factors against a juvenile in order for the waiver to be valid.[11] Finally, in Matter of Stapelkemper, the court held that no error was committed by the youth court in denying the juvenile's request to present evidence relevant to a defense of insanity at the transfer hearing.[12] The court reasoned that since a transfer hearing is not adjudicatory in nature, due process did not require the admission of such evidence.

CORRECTIONS INFORMATION

The Corrections Division of the Department of Institutions provides for juvenile and adult institutions and services. If youth are found guilty in the criminal session of district courts and are sentenced to incarceration, commitments are made to the Department of Institutions which confines youth in the institution it considers proper.[13] Generally, such placements will be to the Montana State Prison, or the Swan River Youth Forest Camp, a facility for young adults including those who have not yet reached age of majority but who have been tried as adults.

Adjudicated delinquents serving an indeterminate sentence are committed to the department's Pine Hills or Mountain View Schools. According to the Youth Court Act, youth shall not be committed or transferred to penal institutions or other facilities used for the incarceration of adults, except that delinquent youth 16 years of age or older may be placed at the Youth Forest Camp subsequent to an evaluation ascertaining the youth's suitability for such placement and with consent of the Department of Institutions.[14] While the placement of older delinquents into the youth camp is allowed, at the time of the study the Department of Institutions administration had decided against placing them in the camp with adult prisoners. Adults under 21 years of age sentenced to the state prison may also be placed in the Swan River Youth Camp if a request for commutation is granted by the governor. Likewise, upon the recommendation of the warden and approval of the person sentenced to the state prison, persons 25 years old or younger may be transferred to the camp.[15] To reiterate, Swan River Youth Camp is a facility for young adults.

STATE DATA SUMMARY

In Montana, juveniles can be prosecuted in adult courts in two ways. First, youths 16 years of age or older accused of one of a number of serious

offenses (see Transfer Process Section), may be transferred to the criminal division of district courts after hearings in juveniles courts. Second, adult and juvenile courts share jurisdiction over lesser offenses, such as alcohol, traffic, and fish and game violations.

In 1978, there was only one judicial transfer reported statewide for 1978 and our sources were unable to locate the county involved.

The remainder of the state's data, shown in Table 27-1, concerns lesser offenses, such as traffic, conservation, and alcohol offenses, which were prosecuted in adult courts.

Eleven of the 56 counties in Montana were contacted to ascertain the number of youth handled in adult courts through concurrent jurisdiction with youth courts for lesser offenses. Ten of these counties provided data to the study and accounted for 8,207 violations. There appears to be little correspondence between the juvenile population of counties that were surveyed and the number of youth reported to have been subject to adult court jurisdiction for lesser offenses. For example, Cascade County, second largest contacted in juvenile population, reported only 31 cases of juveniles being processed by adult courts through concurrent jurisdiction while Ravalli County, ranking eighth in population among those surveyed, is third in reported offenses with a total of 1,294.

TABLE 27-1. MONTANA: JUVENILE REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION FOR TRAFFIC, CONSERVATION, AND ALCOHOL VIOLATIONS (BY REPORTING COUNTY AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Traffic Violations	Number of Conservation Violations	Number of Alcohol Violations
Cascade	16,417	0	1 est	30 est
Flathead	8,716	1,100 est	12 est	0
Gallatin	6,062	*	*	50 est
Hill	3,146	0	0	0
Lake	3,155	260 est	0	42
Lewis and Clark	6,742	7	1	2
Lincoln	3,343	219 est	42 est	42 est
Missoula	11,573	2,400 est	1,940 est	0
Ravalli	3,527	1,200 est	17 est	87
Yellowstone	18,120	109	0	447
Butte-Silver Bow	7,981	12 est	0	0
Total	88,782	5,307 est	2,013 est	700 est

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

FOOTNOTES

1. Montana Youth Court Act, Section 41-5-103(10) and 41-5-203(1).
2. Montana Youth Court Act, Section 41-5-206.
3. Ibid.
4. Montana Youth Court Act, Section 41-5-206(1d), (2), (3).
5. Montana Youth Court Act, Section 41-5-203(2).
6. State ex rel. Dahl v. District Court of Fourth Judicial District, 333 P.2d 495 (1958).
7. State ex rel. Keast v. District Court of Fourth Judicial District, 348 P.2d 135 (1959).
8. Revised Code of Montana, 1974, Section 10-603(c).
9. Lujan v. District Court of Fourth Judicial District, 505 P.2d 896 (1973).
10. Kent v. United States, 383 U.S. 541 (1966).
11. In re Stevenson, 538 P.2d 5 (1975).
12. Matter of Stapelkemper, 562 P.2d 815 (1977).
13. Montana Youth Court Act, Section 41-5-206(6).
14. Montana Youth Court Act, Section 41-5-523.
15. Montana Youth Court Act, Section 53-30-212.

NEVADA PROFILE

ACKNOWLEDGMENTS

The Academy wishes to thank the staff of the juvenile courts of Nevada for their assistance in the data collection effort. Special thanks are extended to Richard S. Staub, Nevada Department of Law Enforcement Assistance, and David G. Stankow, Deputy Legislative Counsel, Nevada Legislative Counsel Bureau, for help in preparing and reviewing the Nevada profile. In addition, the Academy expresses its appreciation to the many other state and local officials who provided us with the necessary data.

METHODOLOGY

Telephone interviews were conducted with district court officials in all 17 Nevada counties by Adacemy staff to collect information on youth in adult courts due to judicial certification, and excluded offenses. Information on the frequency of youth certified to adult court was collected in each county, primarily from juvenile court services staff. More detailed Phase II information on youth certifications, including age, sex, race, offense, judgment, sentence types, and sentence lengths was collected in three counties which ranked in the top ten percent of juvenile population or which certified five or more youth to adult court in 1978. Certification information was generally reported for fiscal year 1978, which included the period of July 1, 1977 to June 30, 1978, and on at least one occasion a calendar year reporting period was utilized by respondents.

Data on youth excluded from juvenile court jurisdiction was also collected in each county. Phase I and some Phase II information on youth excluded to adult court because of murder or attempted murder were provided by juvenile court service staff in combination with adult court prosecutors in all counties where such exclusions were identified. The number of youth appearing in adult court for excluded lesser traffic violations was sought in Clark County where justice and municipal courts have jurisdiction over such cases but this data proved to be unavailable to the study. All data sought on youth in adult courts due to certification and exclusion in Nevada was available except Phase II information related to judgments, sentences, and sentence lengths for youth excluded from juvenile courts for murder or attempted murder.

COURT ORGANIZATION

The highest courts of general jurisdiction in Nevada are the district courts. The state is divided into eight districts, with court being held in each of the 17 counties.

There are 54 justice courts, which have limited civil and criminal jurisdiction but no juvenile jurisdiction. Cities having a population of 1,000 or more may also establish municipal courts, of which there are 17 statewide. Seven municipal judges are also justices of the peace. These courts have jurisdiction in all cases of violation of municipal ordinances, including traffic violations by adults.

The juvenile court divisions of the district courts have original jurisdiction in all juvenile delinquency cases, except murder and attempted murder. These divisions will hereafter be referred to as juvenile courts. Justice courts and municipal courts in any county having a population of 200,000 (Clark County) have original jurisdiction to try juveniles charged with minor traffic violations. These courts, upon an adjudication of guilt, may refer any juvenile to the juvenile court divisions for sentencing if such referral is deemed in the best interest of the child and where the minor is unable to pay the fine assessed or has been ordered to be imprisoned.[1] The juvenile court in Clark County has jurisdiction over serious traffic violations of manslaughter, driving while under the influence of intoxicating liquor, controlled substance or drug, driving without a license or while a license is under suspension, and any other felonious traffic offense. Traffic violations by juveniles of all types in counties other than Clark are under juvenile court jurisdiction.

An overview of Nevada's courts by their jurisdiction over juveniles appears below.

NEVADA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
District Courts, Juvenile Divisions	District Courts, Criminal Divisions Justice Courts	District Courts, Juvenile Divisions Municipal Courts[a] Justice Courts[a]

a. These courts, in counties having a population of 200,000 or more (Clark County), have original jurisdiction over juveniles charged with minor traffic violations.

TRANSFER PROCESS

The initial age of juvenile court jurisdiction in Nevada extends to 18 years of age. There are several ways in which youth younger than 18 years old may be transferred to adult courts in Nevada.[2]

Judicial Waiver

First, juveniles 16 or older who are charged with a felony can be judicially certified to adult court. District attorneys usually initiate the procedure. Hearings are required in juvenile courts, with the courts considering the Kent factors in deciding whether to certify the juvenile for proper criminal proceedings in criminal court. The factors are not itemized in the statute, but are considered during the certification hearing as a result of Nevada Supreme Court cases during 1969 and 1970 (see Case Law Summary section).

After such youth have been certified for proper criminal proceedings and have been transferred out of the juvenile courts, statutes specify that, original jurisdiction rests with the courts to which the youth has been certified. Youth may thereafter petition for transfer back to the juvenile divisions, but only upon a showing of exceptional circumstances.[3] It should also be noted that some juvenile court judges in the state interpret this provision as being a "once waived always waived" statute.

Excluded Offenses

The second legal mechanism bringing youth into adult courts involves charges which are excluded from juvenile court jurisdiction. Youth accused of murder or attempted murder are automatically tried in adult courts under this mechanism.[4] In addition, justice and municipal courts have original jurisdiction over lesser traffic offenses by juveniles in counties with populations over 200,000 people. Clark County is the only jurisdiction with a population of this size. Juvenile courts have jurisdiction over all traffic violations involving juveniles in counties with fewer than 200,000 residents, or all Nevada counties except Clark County.[5]

CASE LAW SUMMARY

Since 1950, particularly in the past ten years, several important legal cases were heard by the Nevada Supreme Court concerning the certification statute. In Powell v. Sheriff of Clark County, the court held, first, that the decision in Kent v. United States was not controlling since the U.S. Supreme Court had not decided the case on constitutional grounds.[6] Second, the court held that although the trial court violated state statute by not conducting a full investigation, the error was cured when the defendant pleaded guilty in district court.[7] Third, the decision in In re Gault was held not to be controlling because it was rendered at least one year after the defendant's certification hearing.[8] Therefore, the court refused to apply Gault retroactively and rejected the defendant's claim that the case was materially prejudiced because he was not represented by counsel at the certification hearing.[9] Without expressly stating that it was overruling Powell, the Nevada Supreme Court held, in Kline v. State, that Kent was decided on constitutional grounds and was controlling.[10] The court based its decision upon language in Gault.[11]

In A Minor Under the Age of 18 Years v. State, the court held that the certification statute requires the juvenile courts to consider reports that were made concerning the defendant's background and environment prior to deciding the certification issue.[12] The constitutionality of the certification statute was upheld in Lewis v. State, wherein the defendant had alleged that it constituted an improper delegation of legislative authority to the juvenile courts.[13] In Thomas v. State, the court held that the certification order empowers the sentencing judge in adult court, when necessary, to consider the defendant's juvenile records without first obtaining an order so specifying from juvenile courts.[14] Further, the court held, in Junior v. State, that it was in error to charge a juvenile with a more serious crime than that which was pending at the time of certification.[15] In Hernandez v. State, the court held that involuntary manslaughter is a felony for certification purposes, even though the final judgment may be of involuntary manslaughter as a gross misdemeanor.[16] Finally, in Martin v. State, the court held that after certification, the district court has jurisdiction to hear the defendant's challenge to the juvenile court proceedings.[17]

The Nevada Supreme Court has also resolved issues concerning the offenses excluded from juvenile court jurisdiction. In Lehman v. Warden, Nevada State Prison, the court held that although second degree murder was not an excluded offense (from juvenile court jurisdiction) as was murder (a capital offense), district courts properly retained jurisdiction over a juvenile who was originally indicted for murder but pleaded guilty to the lesser included offense of second degree murder.[18] Further, in the 1972 Rhodes v. State case, the court held that capital offenses remained excluded from juvenile court jurisdiction, even though the decision of the U.S. Supreme Court in Furman v. Georgia precluded the imposition of the death penalty.[19] Finally, in A Minor 15 Years of Age v. Sheriff, Washoe County, the court held that an offense such as leaving the scene of an accident (a felony), although properly joined herein with a capital offense, was not therefore automatically excluded from juvenile court

jurisdiction.[20] Rather, a certification hearing was required concerning the noncapital offense. At the time of the study, excluded offenses included only murder and attempted murder.

CORRECTIONS INFORMATION

Nevada's penal system is comprised of three independent departments: the Department of Prisons; the Department of Parole and Probation; and the Department of Human Resources, Youth Services Agency. The district courts may commit convicted felons to the Department of Prisons for determinate sentences.

Juveniles found to be delinquent in juvenile court may be placed in one of the training centers operated by the Youth Services Agency of the Department of Human Resources for an indeterminate sentence.

Youth convicted as adults may be committed to the Department of Prisons for determinate sentences or to state juvenile corrections institutions. Youth convicted and sentenced to adult facilities by district courts can be administratively transferred by the Department of Prisons to a juvenile facility, if the superintendent of the facility grants consent for the transfer. If juveniles, who have reached the age of majority while in the juvenile training center commit an additional offense, they can be placed in jail or in an adult corrections facility.

STATE DATA SUMMARY

Juveniles in Nevada can be referred to adult courts in three ways: juveniles 16 years and older can be judicially certified from juvenile to adult court; the offenses of murder and attempted murder are excluded from juvenile court jurisdiction and placed under the jurisdiction of the adult division of the district courts; and justice or municipal courts in Clark County exercise original jurisdiction over minor traffic violations involving juveniles because that county's population exceeds 200,000 people.

Table 29-1 presents the incidence of judicial transfers in each Nevada county through the judicial certification and excluded offense mechanisms. Clark County had the highest number of judicial certifications in the state. The total of 18 such transfers occurring in that county accounts for nearly one-half of all certifications in the state. Slightly over one-fourth of reported certifications occurred in Washoe County, which is second only in population in the state to Clark County. Churchill County with a lesser population certified six youth to adult court, for a rate of 26.798 youth certified per 10,000 juveniles aged eight to 17 years old. The 35 certifications occurring statewide

results in a certification rate of 3.278 youth per 10,000 individuals eight to 17 years old.

The local survey discovered only three youth appearing in adult court due to the exclusion of murder and attempted murder. These exclusions occurred in Washoe and White Pine counties.

TABLE 29-1. NEVADA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE AND LEGAL MECHANISM)

County Name	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses	
		Cases	Rate[b]	Cases	Rate[b]
Churchill	2,239	6	26.798	0	0.000
Clark	62,198	18	2.894	0	0.000
Douglas	1,893	0	0.000	0	0.000
Elko	2,780	0	0.000	0	0.000
Esmeralda	81	0	0.000	0	0.000
Eureka	179	0	0.000	0	0.000
Humboldt	1,412	0	0.000	0	0.000
Lander	585	0	0.000	0	0.000
Lincoln	475	0	0.000	0	0.000
Lyon	1,930	1	5.181	0	0.000
Mineral	1,075	0	0.000	0	0.000
Nye	938	1	10.661	0	0.000
Pershing	540	0	0.000	0	0.000
Storey	122	0	0.000	0	0.000
Washoe	23,704	9 est	3.797	2	0.844
White Pine	2,065	0	0.000	1	4.843
Carson City	4,564	0	0.000	0	0.000
Totals	106,780	35 est	3.278	3 est	0.281

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Tables 29-2A and 29-2B illustrate the relationship between Phase I and Phase II counties for judicial certifications and excluded offenses respectively. Phase II counties for judicial certification, as indicated on Table 29-2A, account for 83 percent of the states juvenile population ages eight to 17. These 88,141 youth live in the three counties which were surveyed for Phase II data. The Phase II judicial certification counties also contained 92 percent of all certifications in the state reported for 197[illegible].

Table 29-2B indicates that all Nevada counties where there were one or more juveniles arrested for murder or attempted murder were surveyed for Phase II information on youth excluded from juvenile court jurisdiction. Available Phase II information was collected on the three such cases that were discovered in the survey.

TABLE 29-2A. NEVADA: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	106,780	17	36
Selected for Phase II Investigation	88,141	3	33
Percentage of State Selected for Phase II Investigation	83%	18%	92%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

TABLE 29-2B. NEVADA: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Excluded Offenses	Number of Referrals Excluded Offenses
State	106,780	17	3
Selected for Phase II Investigation	106,780	17	3
Percentage of State Selected for Phase II Investigation	100%	100%	100%

a. 1978 population estimates were developed by the national center for Juvenile Justice using data from two sources: the 1970 National Census and the National Cancer Institute 1975 estimated aggregate census.

Judicial Waiver

This section contains a series of tables and a brief discussion pertaining to the Phase II information on Nevada youth judicially certified during 1978.

Table 29-3 gives a demographic breakdown--age, sex, race--of those youth judicially certified in the three Phase II counties only. Eighty-seven percent of whose ages are known were 17 years of age. Ninety-four percent were youth males and 63 percent were white youth. One eighteen year old was certified to adult court in Clark County for an offense committed prior to reaching age 18.

TABLE 29-3. NEVADA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex		Race		
		16	17	18+	Unknown	Male	Female	White	Minority	Unknown
Churchill	6	2	4	0	0	6	0	5	1	0
Clark	18	1	13	1	3	16	2	10	8	0
Washoe	9	0	9 est	0	0	9 est	0	*	*	9 est
State Phase II Total	33	3	26	1	3	31	2	15	9	9

Table 29-4 shows the distribution of certifications to adult courts by offense categories. Twelve of the 28 known waivers (43 percent) involved offenses against the person, including murder, manslaughter, rape, robbery, assaults, arson, kidnapping, and weapons violations. Forty-six percent were for burglary and other property offenses. Figure 29-1 graphically depicts these offense categories by percentage, including unknown offenses.

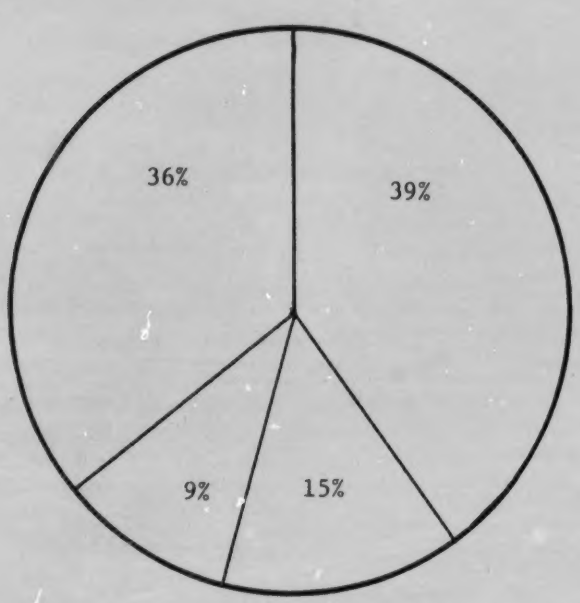
TABLE 29-4. NEVADA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
Churchill	6	0	0	0	0	0	0	5	1	0	0	0
Clark	18	2	0	1	0	1	4	5	2	3	0	0
Washoe	9	2	*	2	*	*	*	*	*	*	*	5
State Phase II Total	33	4	0	3	0	1	4	10	3	3	0	5

* denotes Not Available.

a. Only most serious offense per individual listed.

FIGURE 29-1. NEVADA: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES BY OFFENSE CATEGORY IN 1978



Offenses[a]

Personal	36%
Property	39%
Public Order	9%
Other General	0%
Unknown	15%

N= 33

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 24 percent of all offenses in the Phase II counties.

Table 29-5 shows the judgments of youth who were certified to adult courts in Phase II counties. Of the 23 known dispositions, 19 (83 percent) were found guilty. Four (17 percent) were acquitted or had charges against them dismissed.

TABLE 29-5. NEVADA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other[a]	Un-known
Churchill	6	0	0	6	0	0
Clark	18	1	3	13	1	0
Washoe	9	*	*	*	*	9
State Phase II Total	33	1	3	19	1	9

* denotes Not Available.

a. Pending or held open.

Table 29-6 shows the sentences imposed upon those youth found guilty in adult courts in reporting Phase II counties. Washoe County data were unavailable. Seven (37 percent) received probation. Sixty-three percent were sentenced to periods of incarceration, one-half to state adult corrections facilities, and one-half to state juvenile facilities.

TABLE 29-6. NEVADA: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County[a]	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Churchill	6	0	0	0	0	6	0
Clark	13	0	7	0	6	0	0
State Phase II Total	19	0	7	0	6	6	0

a. Washoe County data were unavailable.

Table 29-7 presents the known sentence durations of those youth sentenced to state adult or juvenile corrections institutions in reporting Phase II counties. The six youth committed to state juvenile facilities all received indeterminate sentences. Of the six committed to adult facilities, three received maximum sentences in excess of five years, and all of them received maximum sentences exceeding one year.

TABLE 29-7. NEVADA: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County[a]	Total Confinements	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Churchill	6	0	0	0	0	0	6	0	0
Clark	6	0	2	1	2	1	0	0	0
State Phase II Total	12	0	2	1	2	1	6	0	0

a. Washoe County data were unavailable.

Excluded Offenses

This section contains a limited discussion pertaining to the Phase II information gathered about Nevada youth referred to adult courts during 1978 through the state's excluded offense mechanism. Only three Nevada youth were reported to have been referred to adult courts through the mechanism in 1978. Table 29-8 shows that demographic data were only partially available for these three cases. The one youth for whom information was available was a white male, 13 years old.

TABLE 29-8. NEVADA: EXCLUDED OFFENSES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Referrals	Age					Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	Unknown	White	Minority	Unknown
Churchill	0	0	0	0	0	0	0	0	0	0	0	0
Clark	0	0	0	0	0	0	0	0	0	0	0	0
Douglas	0	0	0	0	0	0	0	0	0	0	0	0
Elko	0	0	0	0	0	0	0	0	0	0	0	0
Esmeralda	0	0	0	0	0	0	0	0	0	0	0	0
Eureka	0	0	0	0	0	0	0	0	0	0	0	0
Humboldt	0	0	0	0	0	0	0	0	0	0	0	0
Lander	0	0	0	0	0	0	0	0	0	0	0	0
Lincoln	0	0	0	0	0	0	0	0	0	0	0	0
Lyon	0	0	0	0	0	0	0	0	0	0	0	0
Mineral	0	0	0	0	0	0	0	0	0	0	0	0
Nye	0	0	0	0	0	0	0	0	0	0	0	0
Pershing	0	0	0	0	0	0	0	0	0	0	0	0
Storey	0	0	0	0	0	0	0	0	0	0	0	0
Washoe	2	*	*	*	*	2	*	*	2	*	*	2
White Pine	1	1	0	0	0	0	1	0	0	1	0	0
Carson City	0	0	0	0	0	0	0	0	0	0	0	0
State Total	3	1	0	0	0	2	1	0	2	1	0	2

* denotes Not Available.

The three youth referred to adult courts due to excluded offenses were all charged with murder, since this is the only crime (and attempted murder) excluded in Nevada from juvenile court jurisdiction. No other Phase II data were available about these cases.

Table 29-9 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts; the number selected for Phase II investigation; and findings concerning conviction and confinement practices applicable to these youth.

Thirty-five judicial certifications were reported by Nevada juvenile courts, 33 of which were selected for Phase II investigation. Among these 33 youth, 19 (58 percent) were convicted and 12 received sentences of incarceration. Judgment and confinement data were not available about the three youth tried in adult courts due to excluded offenses.

TABLE 29-9. NEVADA: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

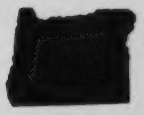
	Judicial Waiver	Excluded Offenses
Total Referrals to Adult Courts in 1978 (Table 29-1)	35	3
Total Referrals Selected for Phase II (Tables 29-3 and 29-8)	33	3
Total Referrals Resulting in Convictions (Table 29-6)	19	*
Total Convictions Resulting in Sentences of Confinement (Table 29-7)	12	*

* denotes Not Available.

In summary, 35 juveniles were judicially waived and three were tried in adult courts due to offenses excluded from juvenile court jurisdiction (murder or attempted murder) in Nevada in 1978. Eighty-seven percent were 17 years old and 94 percent were males. Sixty-three percent were white youth. Thirty-six percent were for burglary, with property offenses accounting for 46 percent of the charges. A nearly equal number were for personal offenses. Eighty-three percent were found guilty. Sixty-three percent of those found guilty were incarcerated, with an equal number being committed to state adult and juvenile corrections institutions. All of the youth incarcerated received maximum terms exceeding one year. The youth excluded from juvenile court in White Pine County for murder was a 13 year old male. No other data were available on this case; or on the two youth tried in criminal court for murder in Washoe County.

FOOTNOTES

1. Nevada Revised Statutes, Section 62.040.
2. Nevada Revised Statutes, Section 62.020(2).
3. Nevada Revised Statutes, Section 62.080.
4. Nevada Revised Statutes, Section 62.040(1).
5. Nevada Revised Statutes, Section 62.040(3).
6. Powell v. Sheriff of Clark County, 462 P.2d 756 (1969); Kent v. United States, 383 U.S. 541 (1966).
7. Nevada Revised Statutes, Section 62.080.
8. In re Gault, 387 U.S. 1 (1967).
9. Ibid.
10. Kline v. State, 464 P.2d 460 (1970).
11. In re Gault, 387 U.S. 1 (1967).
12. A Minor Under the Age of 18 Years v. State, 476 P.2d 11 (1970).
13. Lewis v. State, 478 P.2d 168 (1970).
14. Thomas v. State, 498 P.2d 1314 (1972).
15. Junior v. State, 507 P.2d 1037 (1973).
16. Hernandez v. State, 519 P.2d 107 (1974).
17. Martin v. State, 585 P.2d 1346 (1978).
18. Lehman v. Warden, Nevada State Prison, 480 P.2d 155 (1971); see also Nevada Revised Statutes, Section 62.050.
19. Rhodes v. State, 530 P.2d 1199 (1975); Furman v. Georgia, 408 U.S. 238 (1972).
20. A Minor 15 Years of Age v. Sheriff, Washoe County, 579 P.2d 1249 (1978).



OREGON PROFILE

ACKNOWLEDGMENTS

The Academy expresses its appreciation to Jack Chapman, Consultant, who handled the entire data collection effort in Oregon. Gratitude is also expressed to the many other state and local officials who provided the necessary data.

METHODOLOGY

The data on the frequency of the judicial remands in each of the 36 counties in Oregon (Phase I) were collected through telephone interviews with juvenile courts' personnel. Most of the Phase II data on age, sex, race, offenses, dispositions, and sentences were collected in the same manner from 23 counties which were either the most populous ten percent of the counties or counties reporting five or more judicial remands in 1978. However, a few of the Phase II items were not as readily available, and it became necessary to contact criminal courts' personnel or prosecutorial staff in order to obtain all necessary information. Data were generally not available on youth tried as adults due to "blanket remands" of routine traffic, boating, and game law violations and are not presented in this profile.

COURT ORGANIZATION

The highest courts of general jurisdiction in Oregon are the circuit courts. Oregon is divided into 20 judicial districts within which the 75 circuit court judges hold court in each of the 36 counties. The circuit courts hear all cases not considered in the lower district courts, regardless of subject matter, amount of money involved, or severity of the crime alleged.

District courts are organized county-by-county in Oregon except in 12 of the less populous counties which continue to be serviced by justice courts. District courts handle traffic violations and infractions, small claim cases, civil cases under $3,000, and criminal cases punishable by fines and jail terms of not more than a year.

Nine counties in Oregon elect judges for county courts. These judges carry out certain limited judicial functions in addition to sharing some general county administration duties with elected county commissioners.

In addition, there are municipal courts in most Oregon cities and 12 justice (of the peace) courts serving 12 less populated counties. Both types of courts hear municipal ordinance and traffic violations and have limited criminal and civil jurisdiction

Juvenile jurisdiction in Oregon is generally held by the circuit courts' juvenile sessions, except in seven counties where juvenile jurisdiction is held by county counts (Crook, Gilliam, Ganney, Jefferson, Morrow, Sherman, and Wheeler Counties). These courts will hereafter be referred to as juvenile courts. Juvenile courts have jurisdiction over all juvenile matters including traffic cases.

An overview of Oregon's courts by their jurisdiction over juveniles appears below.

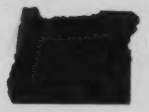
OREGON: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
Circuit Courts' Juvenile Sessions (29 counties) County Courts (7 counties)	Circuit Courts District Courts Justice Courts Municipal Courts	Circuit Courts' Juvenile Sessions (29 counties) County Courts (7 counties)

a. Includes traffic, boating, and hunting violations.

TRANSFER PROCESS

In Oregon, the initial age of juvenile court jurisdiction extends to 18 years of age.[1] Juveniles 16 or older may be remanded to adult courts of competent jurisdiction for any offense.[2] Any person in Oregon may file a petition in the juvenile courts stating that the juvenile appears to be within juvenile courts' jurisdiction. The courts then conduct a preliminary inquiry to determine whether the interests of the juvenile or the public require that further action be taken regarding trial as an adult.[3] Although no direct mention is made in the Oregon code regarding a formal remand hearing, the courts must determine and support, in writing, that retaining jurisdiction



is not in the best interests of the juvenile because the juvenile is not amenable to rehabilitation in juvenile courts' programs and facilities. However, in 1969, the Oregon Supreme Court ruled in Bauge v. Reed (see Case Law section) that the Constitution requires a hearing before a juvenile can be remanded to adult court for trial.[4] Once the remand order has been issued, there is no provision for the adult courts to remand jurisdiction back to the juvenile courts.

Furthermore, the juvenile courts may issue a "permanent" remand order whereby all subsequent offenses charged against the juvenile will automatically be tried in adult courts, regardless of the individual's age.[5] The juvenile courts may revoke the "permanent" order at any time or may order a pending case remanded back to juvenile courts for further proceedings.[6]

It was reported by state sources that it is common practice for Oregon juvenile courts to issue "blanket" remand orders so that all juveniles accused of traffic, boating, and game law violations in a county will automatically appear in adult courts to be tried in the same manner as adult violators.

CASE LAW SUMMARY

Since 1950, the Oregon Supreme Court has ruled several times on the state's remand procedures. The court, in State v. Little, held that juvenile court did not commit an error by remanding for criminal prosecution an individual who was 16 years of age, even though the defendant was under the age of 16 when the offense was committed.[7] According to the court, the statute simply required that the youth be at least 16 years of age at the time of the remand.[8] In addition, the court held that a remand order if a final appealable order.

An interesting issue was before the court in Shannon v. Gladden.[9] The appellant, relying on the decision of Kent v. United States, argued that since the remand hearing was a "critical stage" in a felony proceeding, he had constitutional rights to counsel, confrontation, and cross-examination.[10] The court rejected the appellant's contention and held that because the juvenile and criminal courts had, at that time, concurrent jurisdiction (since repealed), the remand proceeding was not a critical stage and that the jurisdiction of the circuit courts did not depend on a remand order. The court further held that Kent was not controlling since the juvenile court in Kent had exclusive original jurisdiction.[11] That same year in State v. Gullings, a confession made by a juvenile prior to remand was held to be admissible in the subsequent criminal proceedings, where the juvenile had been advised of his constitutional rights.[12]

In State v. Briggs, the court, citing State v. Little, held that the defendant had waived his right to raise alleged defects in the remand proceeding because he had not taken a direct appeal from the remand order.[13] Further, in State v. Zauner, the Oregon Supreme Court held that the statutory provision

authorizing remand did not require a finding by juvenile courts that there was probable cause to believe the act was committed prior to a valid remand order.[14] The court, while incorporating the rule in Kent requiring a hearing before remanding a youth to adult courts into Oregon law, refused to apply it retroactively in Bouge v. Reed.[15] Finally, the court held, in Matter of Cole, that juvenile court had no jurisdiction to vacate its remand order after the filing of the appeal from such order by the juvenile.[16]

CORRECTIONS INFORMATION

In Oregon, the Corrections Division of the State Department of Human Resources operates adult institutions. Any adult 18 years old or over convicted of a felony can be committed to the Corrections Division. Probation can be granted for any offense. Juvenile facilities are operated by the Children's Services Division of the Department of Human Resources. Juveniles between 12 and 18 years of age who commit acts which if committed by adults would constitute a violation of the law and are adjudicated delinquents may be committed to the Children's Services Division for placement in a training school.[17] Other placement options include private contract agencies, foster care homes, and a Secure Adolescent Treatment Program. Juveniles are committed for specific terms, but jurisdiction must cease at age 21. Terms may not exceed the length of time the juvenile might have received for the same offenses if committed by adults.

Youth 16 or 17 years of age who have been remanded to adult courts can be sent to the Oregon State Penitentiary or the Oregon State Correctional Institute. There are procedures to administratively transfer these remanded youth to juvenile facilities if the Children's Services Division so approves.[18] There are no provisions to administratively transfer adjudicated juveniles from juvenile facilities to adult institutions.[19]

STATE DATA SUMMARY

In Oregon, judicial remand is the only method by which juveniles may be transferred to adult courts. This may be done for any offense, if the juvenile is 16 years old or older. "Permanent" remand orders may be issued in individual cases, applying to all future offenses by a particular youth. "Blanket" remands are also issued in order to routinely try traffic and boating offenses by youth between 16 and 18 years old in adult courts. Data on this final group of youth were not available.

Table 38-1 shows the frequency of judicial remands for all offenses except traffic, boating, and hunting violations in Oregon, by county and estimated juvenile population. The remand rate per 10,000 juveniles is also calculated for each county and for the entire state. In comparsion to all other states, Oregon's remand rate is extremely high, 13.53 cases per 10,000 juveniles, representing 524 youth judicially remanded in 1978. Only four counties (11 percent) reported no remands in 1978. All four of these counties are among the seven where juvenile cases are heard in county courts rather than circuit courts. Seventeen counties (47 percent) had remand rates higher than the state average, indicating that the high state average is not the result of one or two unusually high county rates. Also, there is little apparent relationship between county population and remand rate. Data on youth charged with traffic, boating, and game law violations and tried as adults under a blanket remand order were generally not available and are not presented in this profile.

TABLE 38-1. OREGON: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Baker	2,898	14	48.309
Benton	8,741	67	76.650
Clackamas	38,484	3	0.780
Clatsop	4,550	15	32.967
Columbia	6,182	20	32.352
Coos	10,592	10	9.441
Crook	2,005	0	0.000
Curry	2,554	11	43.070
Deschutes	7,118	15	21.073
Douglas	15,796	28	17.726
Gilliam	390	1	25.641
Grant	1,276	4	31.348
Harney	1,293	0	0.000
Hood River	2,535	4	15.779
Jackson	18,939	125	66.001
Jefferson	2,157	2	9.272
Josephine	7,682	16	20.828
Klamath	9,949	3	3.015
Lake	1,108	8 est	72.202
Lane	41,321	19	4.598
Lincoln	4,120	9	21.845

TABLE 38-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Linn	14,900	8	5.369
Malheur	4,568	2	4.378
Marion	28,719	31	10.794
Morrow	953	8	83.945
Multnomah	78,945	29	3.673
Polk	6,560	7	10.671
Sherman	310	0	0.000
Tillamook	3,174	2	6.301
Umatilla	8,103	38	46.896
Union	3,658	2	5.467
Wallowa	1,144	2	17.483
Wasco	3,330	1	3.003
Washington	34,802	10 est	2.873
Wheeler	324	0	0.000
Yamhill	8,231	10	12.149
Total	387,411	524 est	13.526

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 38-2 shows the relationship between the state and counties chosen for Phase II investigation. Phase II counties are at minimum counties with the ten percent largest populations in the state on those reporting five or more remands in 1978. However, due to the general availability of data in Oregon, the majority of counties -- 23 out of 36 -- were selected as Phase II counties. As seen in Table 38-2, the 23 Phase II counties represented 93 percent of state's juvenile population and 96 percent of the state's total number of remands.

TABLE 38-2. OREGON: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	387,411	36	524
Selected for Phase II Investigation	361,247	23	504
Percentage of State Selected for Phase II Investigation	93%	64%	96%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregated census.

Table 38-3 gives a demographic breakdown--age, sex, race--of the 504 remands from Phase II counties. One hundred five (21 percent) were 16 years old and the remaining 399 (79 percent) were 17 years old. Four hundren thirty-four youth (87 percent) whose sex were know were males. Where race was known, 96 percent (416) were white and four percent (16) were minority youth.

TABLE 38-3. OREGON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex			Race		
		0-15	16	17	18+	Male	Female	Un-known	White	Minor-ity	Un-known
Baker	14	0	5	9	0	13	1	0	14	0	0
Benton	67	0	33 est	34 est	0	56	11	0	64	3	0
Clackamas	3	0	0	3 est	0	3	0	0	*	*	3
Clatsop	15	0	4	11	0	8	7	0	*	*	15
Columbia	20	0	5 est	15 est	0	18 est	*	2	20	0	0
Coos	10	0	2	8	0	9	1	0	10	0	0
Curry	11	0	4 est	7 est	0	10	1	0	11	0	0
Deschutes	15	0	2	13	0	13	2	0	15	0	0
Douglas	28	0	11	17	0	23	5	0	28	0	0
Jackson	125	0	13	112	0	102	23	0	125	0	0
Josephine	16	0	2	14	0	16	0	0	*	*	16
Klamath	3	0	0	3	0	3	0	0	2	1	0
Lake	8	0	2 est	6 est	0	8	0	0	8	0	0
Lane	19	0	1	18	0	18	1	0	17	2	0
Lincoln	9	0	1	8	0	8	1	0	9	0	0
Linn	8	0	1	7	0	6	2	0	8	0	0
Marion	31	0	4	27	0	28	3	0	26	5	0
Morrow	8	0	0	8 est	0	8	0	0	8	0	0
Multnomah	29	0	2	27	0	27 est	*	2	26	3	0
Polk	7	0	1 est	6 est	0	6	1	0	7	0	0
Umatilla	38	0	9 est	29 est	0	32	6	0	*	*	38
Washington	10	0	0	10	0	9	1	0	8	2	0
Yamhill	10	0	3 est	7 est	0	10	0	0	10	0	0
State Phase II Total	504	0	105	399	0	434	66	4	416	16	72

* denotes Not Available.

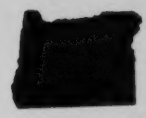


Table 38-4 shows the 504 remands by category of offense. Where data were available, 53 (11 percent) were offenses against the person, and 199 (42 percent) were for public order offenses. Public order offenses included drug and liquor violations. Two percent (8) were in the "other general" category, which included felony traffic violations, not included in the "blanket" remand procedure. Figure 38-1 graphically depicts these offense categories by percentage, including the 26 unknown offenses.

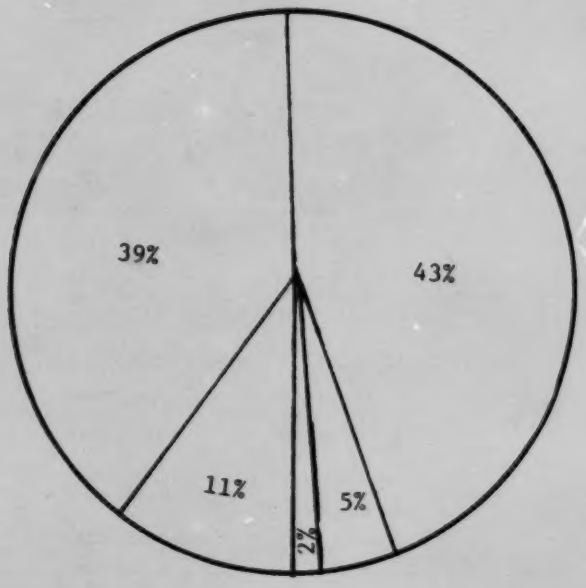
TABLE 38-4. OREGON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Baker	14	0	0	0	1 est	1 est	0	2 est	0	10 est	0	0
Benton	67	0	0	0	0	0	0	3 est	6 est	58 est	0	0
Clackamas	3	1	0	0	0	0	0	2	0	0	0	0
Clatsop	15	0	0	0	0	0	0	8	2	5	0	0
Columbia	20	0	0	0	0	0	0	0	0	20	0	0
Coos	10	0	0	1	0	1	0	8	0	0	0	0
Curry	11	0	0	0	0	0	0	2	0	7	2	0
Deschutes	15	0	0	0	0	1	0	5	9	0	0	0
Douglas	28	0	0	2 est	0	0	0	7 est	14 est	5 est	0	0
Jackson	125	0	1	1	9	0	1	3	24	82	0	4
Josephine	16	0	0	2 est	0	0	0	10 est	4 est	0	0	0
Klamath	3	0	1	0	0	0	0	1	1	0	0	0
Lake	8	*	*	*	*	*	*	*	*	*	*	8
Lane	19	0	0	0	0	0	0	5	9	5	0	0
Lincoln	9	0	0	0	0	2	0	5	2	0	0	0
Linn	8	0	0	1	0	0	0	0	2	5	0	0
Marion	31	*	*	*	1	*	2	5	11	6	*	6
Morrow	8	0	0	0	0	0	0	0	0	8	0	0
Multnomah	29	3	2	5	4	1	4	10	0	0	0	0
Polk	7	*	*	*	*	*	*	*	*	*	*	7
Umatilla	38	0	0	0	0	0	0	12	20	0	6	0
Washington	10	1	0	0	0	0	0	6	0	0	0	0
Yamhill	10	*	*	*	*	1	*	1	*	7	*	1
State Phase II Total	504	5	4	15	15	7	7	95	104	218	8	26

* denotes Not Available

a. Only most serious offense per individual is listed.

FIGURE 38-1. OREGON: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	11%
Property	39%
Public Order	43%
Other General	2%
Unknown	5%

N= 504

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represents six percent of all offenses in the Phase II counties.

Table 38-5 gives the judgments of the 504 Phase II cases remanded. Of known judgments, 373 (88 percent) were found guilty, 13 (three percent) were found not guilty, and 36 (eight percent) were dismissed. The 27 in the "other" category were cases held open or continued.

TABLE 38-5. OREGON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]	Unknown
Baker	14	0	0	0	14 est	0	0
Benton	67	0	0	0	67 est	0	0
Clackamas	3	0	0	0	3	0	0
Clatsop	15	*	*	*	*	*	15
Columbia	20	0	0	0	20	0	0
Coos	10	0	0	0	3	7	0
Curry	11	0	0	0	11 est	0	0
Deschutes	15	0	0	0	15 est	0	0
Douglas	28	8 est	0	0	20 est	0	0
Jackson	125	*	25	*	95	4	1
Josephine	16	0	0	0	16 est	0	0
Klamath	3	0	0	0	2	1	0
Lake	8	0	0	0	8 est	0	0
Lane	19	1	3	0	9	6	0
Lincoln	9	0	0	0	9	0	0
Linn	8	0	1	0	3	4	0
Marion	31	0	7	0	19	5	0
Morrow	8	0	0	0	8	0	0
Multnomah	29	4	0	0	25	0	0
Polk	7	0	0	0	7 est	0	0
Umatilla	38	*	*	*	*	*	38
Washington	10	0	0	0	10	0	0
Yamhill	10	*	*	*	9 est	*	1
State Phase II Total	504	13	36	0	373	27	55

* denotes Not Available.

a. Held open or pending.

Table 38-6 gives the types of sentences imposed on youth found guilty in the reporting Phase II counties. Where data were available, 206 youth (56 percent) received fines and 74 (20 percent) were placed on probation. Youth were also sentenced to incarceration, including 45 (12 percent) receiving jail sentences, and 42 youth (11 percent) being sentenced to confinement in state adult corrections institutions. Two youth were reported to have been sent to state juvenile corrections facilities, although such a sentence was not determined to be a sentencing option by this study. However, transfer from an adult to a juvenile corrections facility was indicated as possible. Finally, one "other" sentence to a non-residential setting was reported.

TABLE 38-6. OREGON: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types						
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other	Unknown
Baker	14	12 est	0	2 est	0	0	0	0
Benton	67	58	6	3	0	0	0	0
Clackamas	3	*	*	*	1	*	*	2
Columbia	20	20	0	0	0	0	0	0
Coos	3	0	0	3	0	0	0	0
Curry	11	3 est	8 est	0	0	0	0	0
Deschutes	15	3 est	11 est	1 est	0	0	0	0
Douglas	20	0	10 est	8 est	2 est	0	0	0
Jackson	95	88	0	5	2	0	0	0
Josephine	16	0	5 est	6 est	5 est	0	0	0
Klamath	2	0	1	0	1	0	0	0
Lake	8	0	7 est	1 est	0	0	0	0
Lane	9	1	3	1	4	0	0	0
Lincoln	9	0	2	5	2	0	0	0
Linn	3	1	1	0	1	0	0	0
Marion	19	5	6	5	3	0	0	0
Morrow	8	8	0	0	0	0	0	0
Multnomah	25	0 est	0 est	5 est	17 est	2 est	1 est	0
Polk	7	0	7 est	0	0	0	0	0
Washington	10	0	6	0	4	0	0	0

TABLE 38-6 (Continued)

County	Total Con-victions	Sentence Types: Fined	Pro-bation	Jail	State Adult Cor-rections Facilities	State Juve-nile Cor-rections Facilities	Other	Un-known
Yamhill	9	7	1	*	*	*	*	1
State Phase II Total	373	206	74	45	42	2	1	3

* denotes Not Available.

Table 38-7 gives the lengths of maximum sentence for the 89 youth incarcerated and the one youth from the "other" category for Multnomah County. Forty-seven (52 percent) received maximum sentences of one year or less, 28 (31 percent) received maximum sentences of over three to five years, and five (six percent) received maximum sentence of over five to ten years. Seven (eight percent) received maximum sentences of more than ten years but less than life. Three (three percent) received life sentences.

Table 38-8 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts; the number selected for Phase II investigation; and findings concerning conviction and confinement practices applicable to these youth. Among the 524 youth reported to have been remanded to adult courts for all offenses except traffic, boating, and hunting violations, 504 (96 percent) had at least some Phase II information provided by the juvenile courts. There were 373 youth found guilty among these Phase II cases, 89 of whom received sentences of confinement (one additional youth being sentenced to a non-residential setting). Data on youth charged with traffic, boating, and game law violations and tried as adults under blanket remands were generally not available and are not presented.

TABLE 38-7. OREGON: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Baker	2	2 est	0	0	0	0	0	0	0
Benton	3	3	0	0	0	0	0	0	0
Clackamas	1	0	0	1	0	0	0	0	0
Coos	3	3	0	0	0	0	0	0	0
Deschutes	1	1	0	0	0	0	0	0	0
Dougias	10	8 est	0	2 est	0	0	0	0	0
Jackson	7	5	0	1	0	1	0	0	0
Josephine	11	5 est	0	6 est	0	0	0	0	0
Klamath	1	0	0	0	0	1	0	0	0
Lake	1	1	0	0	0	0	0	0	0
Lane	5	1	0	3	1	0	0	0	0
Lincoln	7	5	0	2 est	0	0	0	0	0
Linn	1	0	0	0	1	0	0	0	0
Marion	8	5	0	3	0	0	0	0	0
Multnomah	25[a]	8 est	0	10 est	3 est	2	0	2 est	0
Washington	4	0	0	0	0	3	0	1	0
State Phase II Total	90	47	0	28	5	7	0	3	0

[a] Includes one from the "other" category in Table 38-6.

TABLE 38-8. OREGON: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 38-1)	524
Total Referrals Selected for Phase II (Table 38-3)	504
Total Referrals Resulting in Convictions (Table 38-6)	373
Total Convictions Resulting in Sentences of Confinement (Table 38-7)	90[a]

a. One youth was sentenced to a non-residential setting.

In summary, of youth remanded in Phase II counties for which data were available, 79 percent were 17 years old, with 87 percent males and 96 percent white youth. Only 11 percent were remanded for offenses against the person, while about 42 percent were for property offenses. About 88 percent were found guilty, and about 56 percent of these youth received fines. Only about 23 percent received jail or prison sentences, and 52 percent of these received maximum terms of one year or less.

FOOTNOTES

1. Oregon Revised Statutes, Section 419.476(1)(a).
2. Oregon Revised Statutes, Section 419.533.
3. Oregon Revised Statutes, Section 419.482.
4. Oregon Revised Statutes, Section 419.533(1)(c) and Bouge v. Reed, 459 P.2d 869; 254 Or. 418 (1969).
5. Oregon Revised Statutes, Section 419.533(4).
6. Oregon Revised Statutes, Section 419.533(5).
7. State v. Little, 407 P.2d 627; 241 Or. 557 (1965).
8. Oregon Revised Statutes, Section 419.533(1)(a).
9. Shannon v. Gladden, 413 P.2d 418; 243 Or. 334 (1966).
10. Kent v. United States, 383 U.S. 541 (1966).
11. Oregon Revised Statutes, Section 419.533(1)(c).
12. State v. Gullings, 416 P.2d 311; 244 Or. 173 (1966). See also State v. Casey, 416 P.2d 665; 244 Or. 160 (1966); and State v. Phillips, 422 P.2d 670; 245 Or. 466 (1967).
13. State v. Briggs, 420 P.2d 71; 245 Or. 503 (1966).
14. State v. Zauner, 441 P.2d 83; 250 Or. 418 (1968).
15. Bouge v. Reed, 459 P.2d 869; 254 Or. 418 (1969).
16. Matter of Cole, 570 P.2d. 365; 280 Or. App. 173 (1977).
17. Oregon Revised Statutes, Sections 420.011, 419.507, and 419.509.
18. Oregon Revised Statutes, Section 420.011.
19. Oregon Revised Statutes, Sections 420.865 and 420.880.

UTAH PROFILE

ACKNOWLEDGMENTS

The Academy would like to thank Ralph L. Finlayson, Associate Legislative General Counsel; and Mr. Mike Phillips, Deputy Administrator, Utah Juvenile Court; for providing data on youth certified to adult courts in Utah. The district attorney's office in Utah County was helpful in providing Phase II information. In addition, appreciation is owed to the many other state and local officials who provided additional information.

METHODOLOGY

Phase I data--the frequency that youth were judicially certified from juvenile to adult courts--were sought for all counties in Utah. The Utah Juvenile Court provided the necessary Phase I data, on a county-by-county basis. The court was also able to provide some Phase II data, relating to the age, sex, race, and offense characteristics of the youth certified to adult courts.

The research design called for the collection of Phase II data from the ten percent most populous counties in the state, plus all counties reporting five or more certifications in 1978. In addition to the types of data mentioned above, Phase II also was defined to include data about judgments and sentencing, which the juvenile court was unable to provide. There were no counties that certified five or more youth. Therefore, the size factor was the only relevant criterion for Phase II data collection. The three most populous of Utah's 29 counties are Salt Lake, Utah, and Weber Counties.

Academy staff contacted the district attorney's offices in Utah and Salt Lake counties for the judgment and sentence data and to verify the data supplied by the juvenile court. Weber County fit the Phase II criteria because of its size but it reported no certifications in 1978. Salt Lake County could not provide the additional Phase II data requested. However, officials could verify the frequencies reported by the state. Utah County, then, is the only jurisdiction reporting judgment and offense data.

One interesting set of data that was available in Utah, although not generally found in other states in the country, relates to certification hearings that were held in juvenile courts where the certification were denied. That information is included in this profile.

As a final note, traffic offense data, for cases tried in adult courts under concurrent jurisdiction provisions, were unavailable.

COURT ORGANIZATION

The highest courts of general jurisdiction in Utah are district courts, organized into seven districts, with hearing sites in each of the 29 counties. There are 20 city/circuit courts which have limited civil and criminal jurisdiction, and 65 justice courts with limited jurisdiction over misdemeanors.

Utah has a unified juvenile court system with status equal to district courts. Juvenile cases are heard in one of five juvenile district courts, hereinafter referred to as juvenile courts. The juvenile courts have exclusive original jurisdiction in all matters relating to delinquency, dependency, and neglect of individuals under 18 years of age. There is an exception in that the Division of Family Services, Department of Social Services, has initial responsibility to provide services for "youth and their families who are in need of services as demonstrated by behavior of the youth identifying him or her as a runaway, or beyond the control of his or her lawful custodian or school authorities."[1] Only after the Divison of Family Services has been unsuccessful may a petition be filed with the juvenile court.

Circuit courts and juvenile courts share concurrent jurisdiction over youth of any age charged with traffic violations.

An overview of Utah's courts by their jurisdiction over juveniles appears below.

UTAH: COURT JURISDICTIONS OVER JUVENILES

General Juvenile Jurisdiction	Jurisdiction Over Transferred Juveniles	Juvenile Traffic[a]
Juvenile District Courts	District Courts	Circuit Courts Juvenile District Courts

a. Circuit and juvenile courts share concurrent jurisdiction over traffic violations by juveniles of any age. As of 1979, justice courts share concurrent jurisdiction with circuit and juvenile courts over 16 to 18 years old charged with traffic violations.

TRANSFER PROCESS

In Utah, initial juvenile court jurisdiction extends to 18 years of age.[2] There are two ways persons under 18 may be prosecuted in adult courts.

Judicial Waiver

Juveniles 14 years of age or older may be certified to district courts for prosecution as adults if they are charged with felonies. In all such cases, the juvenile courts must hold a certification hearing prior to making decisions about certification to adult courts.[3] As a matter of practice, rather than statutory authority, these hearings can be initiated on the motion of the county attorneys, the courts' probation officers, or the youth themselves. If a juvenile court, after a full investigation and hearing, finds that it would be contrary to the best interests of the juvenile or the public to retain jurisdiction, it may enter an order certifying the youth to district (adult) court. Once the criminal complaint is filed with a court of competent jurisdiction following proper certification, further juvenile court jurisdiction is terminated. Jurisdiction cannot be waived back to the juvenile courts.[4]

Concurrent Jurisdiction

Circuit courts and juvenile courts share concurrent jurisdiction over traffic offenses charged against juveniles of any age. In cases of violations of traffic laws, only a citation or summons is necessary to invoke the jurisdiction of either court.[5]

Effective in 1979, justice courts share concurrent jurisdiction with circuit courts and juvenile courts over traffic offenses of juveniles 16 to 18 years of age.

CASE LAW SUMMARY

Several cases involving certification-related issues have been heard in the Utah Supreme Court since 1950. Prior to 1965, Utah law provided for concurrent jurisdiction in juvenile and district courts over individuals who were 14 years of age or older and charged with felonies.[6] The Utah Supreme Court, in Mayne v. Turner, held this statute to be constitutional, in spite of the appellant's

claim that the differences in detention and punishment in the two court systems violated his rights to equal protection and due process.[7] The current law, dating back to 1965, now requires certification procedures initiated in juvenile courts.

In State, in Interest of Salas, the Utah Supreme Court rejected the petitioner's contention that the certification statute was unconstitutionally vague.[8] Further, the court held that a judge's oral statement, which sets forth the reasons for certification and the factors which had been considered, met the statutory requirement of a full investigation.

Four years later, the Utah high court resolved several important issues in State, in Interest of Atcheson.[9] First, the court held that a certification order is a final appealable order. Second, the court stated that due process does not require that a preliminary hearing be held prior to certification. Thus, a specific finding of probable cause is not a condition precedent to a valid certification order. Finally, the court held that there is no statutory or constitutional right to treatment in the juvenile system.

CORRECTIONS INFORMATION

In Utah, one state agency acts as an umbrella department for most social and corrections service delivery. Adult corrections facilities and parole are operated by the Division of Corrections, Department of Social Services. The Division of Family Services, in the same department, operates the state's youth corrections services, including a delinquency facility called the Youth Development Center. In addition, the division operates or purchases community-based services, including aftercare programs, group homes, and foster care.

When youth are certified to adult courts and subsequently convicted and sentenced to the state, they will be placed in an adult institution operated by the Division of Corrections. While there is no ban on transfers to the Youth Development Center, respondents indicated that this does not occur. On the other hand, there is a statutory prohibition against administrative transfers of delinquents to adult facilities.[10]

STATE DATA SUMMARY

While there are two legal mechanisms used in Utah to refer youth to adult courts, i.e., judicial waiver (certification) and concurrent jurisdiction (traffic) only certification information is presented below. Data relating to youth tried in adult courts for traffic offenses were unavailable.

In 1978, certifications could be ordered by juvenile courts in any case involving juveniles 14 years of age or older and charged with felonies. As shown in Table 45-1, there were eight youth certified to adult courts in 1978. Twenty-three counties did not certify anyone and, out of the six counties that did report the use of this mechanism, four of the eight certifications occurred in the fifth judicial district, consisting of Uintah, Emery, and Grand Counties. Calculated against the estimated juvenile populations in those counties, the rate of certification is quite high in these counties (14.42 per 10,000 juveniles in Grand County), but, in view of the very small frequencies, little significance can be placed on this fact.

TABLE 45-1. UTAH: REFERRALS OF JUVENILES FROM JUVENILE COURTS TO ADULT COURTS IN 1978 (BY COUNTY, RATE AND MECHANISMS)

County	Juvenile Population (Age 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Beaver	687	0	0.000
Box Elder	6,476	0	0.000
Cache	8,274	0	0.000
Carbon	3,144	0	0.000
Daggett	155	0	0.000
Davis	26,069	1	0.384
Duchesne	2,810	0	0.000
Emery	1,468	1	6.812
Garfield	661	0	0.000
Grand	1,387	2	14.420
Iron	2,431	0	0.000
Juab	892	0	0.000
Kane	714	0	0.000
Millard	1,610	0	0.000
Morgan	990	0	0.000
Piute	240	0	0.000
Rich	333	0	0.000
Salt Lake	99,281	1	0.101
San Juan	3,065	0	0.000
Sanpete	2,033	0	0.000
Sevier	2,086	0	0.000
Summit	1,448	0	0.000
Tooele	4,885	0	0.000
Uintah	3,831	1	2.610

TABLE 45-1. (Continued)

County	Juvenile Population (Age 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Utah	30,034	2	0.666
Wasatch	1,289	0	0.000
Washington	3,390	0	0.000
Wayne	308	0	0.000
Weber	24,583	0	0.000
State Total	234,574	8	0.341

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Consistent with the format design for state profiles, Table 45-2 reflects the availability of Phase II data within Utah. Selected Phase II date (age, sex, race, and offense) are available for all counties in the state and for all eight judicial waivers.

TABLE 45-2. UTAH: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES BASED UPON 1978 POPULATION ESTIMATES AND DATA

County	Juvenile Population (Ages 8-17)[a]	Number of Counties	Number of Referrals
		Judicial Waiver	Judicial Waiver
State	234,574	29	8
Selected for Phase II Investigation	234,574	29	8
Percentage of State Selected for Phase II Investigation	100%	100%	100%

a. 1978 population estimates: estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Table 45-3 offers a demographic breakdown by age, sex, and race for the eight youth waived to adult courts. While 14 is the minimum age requirement for certification eligibility, all eight youth were age 16 or older at the time of their transfers. All were male and six of the eight youth were white.

TABLE 45-3. UTAH: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total	Age				Sex		Race	
		0-15	16	17	18+	Male	Female	White	Minority
Beaver	0	0	0	0	0	0	0	0	0
Box Elder	0	0	0	0	0	0	0	0	0
Cache	0	0	0	0	0	0	0	0	0
Carbon	0	0	0	0	0	0	0	0	0
Daggett	0	0	0	0	0	0	0	0	0
Davis	1	0	0	1	0	1	0	0	1
Duchesne	0	0	0	0	0	0	0	0	0

TABLE 45-3. (Continued)

County	Total	Age				Sex		Race	
		0-15	16	17	18+	Male	Female	White	Minority
Emery	1	0	0	1	0	1	0	1	0
Garfield	0	0	0	0	0	0	0	0	0
Grand	2	0	0	2	0	2	0	2	0
Iron	0	0	0	0	0	0	0	0	0
Juab	0	0	0	0	0	0	0	0	0
Kane	0	0	0	0	0	0	0	0	0
Millard	0	0	0	0	0	0	0	0	0
Morgan	0	0	0	0	0	0	0	0	0
Piute	0	0	0	0	0	0	0	0	0
Rich	0	0	0	0	0	0	0	0	0
Salt Lake	1	0	1	0	0	1	0	0	1
San Juan	0	0	0	0	0	0	0	0	0
Sanpete	0	0	0	0	0	0	0	0	0
Sevier	0	0	0	0	0	0	0	0	0
Summit	0	0	0	0	0	0	0	0	0
Tooele	0	0	0	0	0	0	0	0	0
Uintah	1	0	1	0	0	1	0	1	0
Utah	2	0	1	0	1	2	0	2	0
Wasatch	0	0	0	0	0	0	0	0	0
Washington	0	0	0	0	0	0	0	0	0
Wayne	0	0	0	0	0	0	0	0	0
Weber	0	0	0	0	0	0	0	0	0
State Total	8	0	3	4	1	8	0	6	2

Table 45-4 reflects the offenses charged against these eight youth, which precipitated the certifications. Half of the cases involved charges of aggravated assault. When added to the case of robbery, it appears that five of the eight cases involved crimes against persons. The remaining cases were certified for burglary in two instances and for theft in a third.

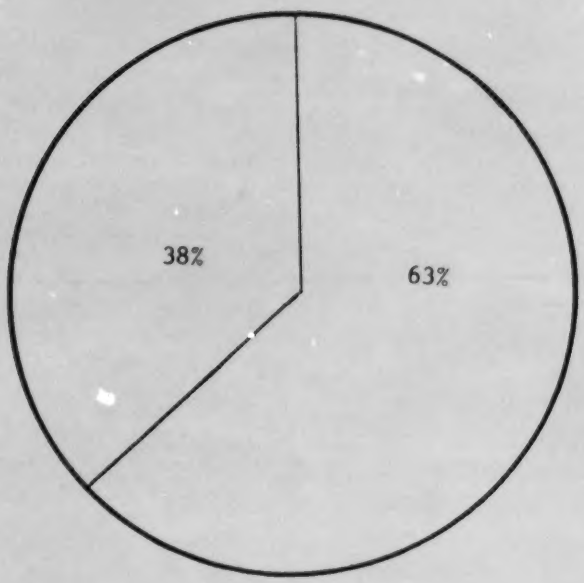
TABLE 45-4. UTAH: JUDICIAL WIAVERS TO ADULT COURTS (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]									
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General
Davis	1	0	0	0	0	1	0	0	0	0	0
Emery	1	0	0	0	0	0	0	1	0	0	0
Grand	2	0	0	0	0	2	0	0	0	0	0
Salt Lake	1	0	0	0	0	0	0	1	0	0	0
Uintah	1	0	0	0	0	0	0	0	1	0	0
Utah	2	0	0	1	0	1	0	0	0	0	0
State Total	8	0	0	1	0	4	0	2	1	0	0

a. Only most serious offenses per individual listed.

Figure 45-1 reflects the breakdown of personal and property offenses by percentage. Since all the crimes against the person are classified as "violent", the percentages for both violent and personal crimes are the same.

FIGURE 45-1. UTAH: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS (BY OFFENSE CATEGORY) IN 1978



Offenses

Personal	63%
Property	38%
Public Order	0%
Other General	0%

N = 8

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 63 percent of all offenses in the state.

Since data in directly surveyed Phase II counties (Salt Lake and Utah) for judgments and sentences were only available from Utah County, those statistics are offered in a narrative fashion. Such data were not sought in the other four counties reporting either one or two waivers during 1978.

In Utah County, both youth were found guilty and were sentenced to the state adult corrections facility. The maximum periods of incarceration possible under those sentences were over ten years and life, respectively.

Data were available in Utah for cases for which certification to adult courts was denied and are displayed in Table 45-5. There were nine cases reported in 1978. They all occurred in five counties. Davis County, the third most populous in the state, had one-third of the hearings which did not result in certifications. Six of the cases were from the First District Court, consisting of Box Elder, Davis, and Weber Counties. When compared with the data on Table 45-1 for these three counties, it can be seen that, although seven certifications were requested in that district, only one was granted.

TABLE 45-5. UTAH: CERTIFICATION HEARINGS THAT DID NOT RESULT IN TRANSFERS TO ADULT COURTS (BY COUNTY AND FREQUENCY) IN 1978

County	Cases
Box Elder	2
Davis	3
Duchesne	1
Salt Lake	2
Weber	1
State Total	9

Table 45-6 gives a demographic breakdown for cases not certified to adult courts. Six of the nine juveniles were 17 (or 18) years of age, and the other third were 16 years of age. Eight of nine juveniles were males. Similarly, 89 percent were white youth.

Given the small number of youth judicially waived and certifications denied, comparisons are tenuous at best. It may be worth noting, however, that the one female to receive a certification hearing had the motion dismissed.

TABLE 45-6. UTAH CERTIFICATION HEARINGS THAT DID NOT RESULT IN TRANSFER (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Denials	Age				Sex		Race	
		0-15	16	17	18+	Male	Female	White	Minority
Box Elder	2	0	0	2	0	1	1	2	0
Davis	3	0	1	2	0	3	0	3	0
Duchesne	1	0	0	1	0	1	0	1	0
Salt Lake	2	0	1	0	1	2	0	1	1
Weber	1	0	1	0	0	1	0	1	0
State Total	9	0	3	5	1	8	1	8	1

Table 45-7 presents the charges in the cases which resulted in denial of the motions for certification. Six of nine cases were offenses against the person (robbery, aggravated assault, and other personal). However, as opposed to those actually waived, most of these were for robbery rather than aggravated assault. The one "other personal" offense was arson. One-third (three) were property offenses (burglary and auto theft).

TABLE 45-7. UTAH: CERTIFICATION HEARINGS THAT DID NOT RESULT IN TRANSFER TO ADULT COURTS (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Denials	Offenses[a]									
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General
Box Elder	2	0	0	1	0	0	0	1	0	0	0
Davis	3	0	0	2	0	0	0	0	1	0	0
Duchesne	1	0	0	0	0	1	0	0	0	0	0
Salt Lake	2	0	0	1	0	0	1	0	0	0	0
Weber	1	0	0	0	0	0	0	1	0	0	0
Totals	9	0	0	4	0	1	1	2	1	0	0

a. Only most serious offense per individual listed.

In summary, juveniles certified in 1978 were males, all were 16 years of age or older, and three-fourths were white youth. One-half were charged with aggravated assault. Sixty-three percent were charged with an offense against the person. Data on judgments, sentence types, and sentence durations are limited to two youth (one county), both of whom were found guilty and sentenced to long periods of incarceration. Data about youth in adult courts due to concurrent jurisdiction for traffic offenses were not available.

Similar to those judicially certified, all of the youth where motions for certification were denied were 16 years of age or older, predominately males and white youth. Although personal offenses comprise similar percentages for both groups, those who were certified were more likely to have been charged with an aggravated assault than robbery, unlike those not certified.

FOOTNOTES

1. Utah Code Annotated, Section 55-15b-6.
2. Utah Code Annotated, Section 78-3a-2.
3. Utah Code Annotated, Section 78-3a-25.
4. Ibid.
5. Utah Code Annotated, Section 78-3a-44. Dimmitt v. City Court of Salt Lake City, 2d 461, 21 U. (2d) 257.444 P.
6. Utah Code Annotated, Section 55-10-5 (1953).
7. Mayne v. Turner, 468 P.2d 369 (1970).
8. State, in Interest of Salas, 520 P.2d 874 (1974).
9. State, in Interest of Atcheson, 575 P.2d 181 (1978).
10. Utah Code Annotated, Section 78-3a-43.

WASHINGTON PROFILE

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METHODOLOGY

Data were collected through the combined efforts of Academy staff, the Washington Council on Crime and Delinquency, and two private consultants. Initial enquiries requesting data on the frequency of youth transferred to adult courts (Phase I) were obtained by telephone surveys to juvenile court personnel in all 39 counties. With some difficulty, juvenile court staff in most counties were able to supply demographic, offense, disposition, and sentence data (Phase II) by manual record examinations. In two counties--King and Clark--it became necessary to send in data collectors to manually retrieve the desired information.

Traffic data collection was also problematic, due in great measure to a statutory amendment which became effective midway through 1978, the base year for this study. Prior to July 1, 1978, juveniles were within the jurisdiction of juvenile courts for traffic offenses. In order to be handled by adult courts, traffic cases had to be declined by juvenile courts. A few such cases appear in the judicial waiver data. Beginning July 1, 1978, routine traffic offenses were excluded from juvenile court jurisdiction and were handled along with traffic offenses by adults. Courts hearing adult and juvenile cases were contacted in several counties for juvenile traffic offense data, which was generally

unavailable and the search in Washington for data on excluded juvenile traffic offenses was discontinued.

A final note, with regard to limitations of the census data. Washington's once-waived-always-waived rule requires that youth are no longer tried in juvenile courts after they have once been waived to adult courts for previous offenses. Only about two-thirds of the counties were able to provide these data.

Washington was selected from federal administrative region 10 for case study because it presents several unusual situations relative to the transfer of youth to adult criminal courts. Many of these variations resulted from a major revision of the state's juvenile code in 1977. The 1977 juvenile code establishes four basic categories of offenders:

- youth who must be diverted;
- minor or first offenders;
- middle offenders; and
- serious offenders.

Each class of offenders carries with it certain prosecutorial and dispositional limitations not applicable to the other categories of juveniles. Washington has gone about as far as any state in the country in requiring diversion for the least serious cases filed in juvenile courts. At the same time, it has also gone further in requiring waiver (declination) hearings in certain types of cases and mandatory confinement in others.

Consistent with the study design, interviews were conducted by the Academy, in April 1980, in four locations: Thurston County (Olympia), the location of the state capital; King County (Seattle), the largest county; Benton (Prosser, Kennewick, Richland) and Richland (Pasco) Counties representing average-sized, nonmajor metropolitan areas; and Clark County (Vancouver), bordering upon the Portland, Oregon metropolitan area, and the number of declines (waivers) reported.

Interviews were conducted with judges, juvenile court personnel, county prosecutors, public defenders, state juvenile and adult corrections administrators, the state juvenile court coordinator, a member of the state legislative staff, a law enforcement officer, and a social work professor. A standard interview format was utilized which directed the interviewees to respond to the relative advantages and disadvantages of trying youth in adult courts. Additional questions were asked concerning proposed or needed changes in the juvenile code, dispositional outcomes of youth tried as adults, and trends and influences in the state affecting the decline issue. Interviewees were encouraged to provide additional reports, documents, and data which related to the issue.

This report contains an overview of the present processes of referring juveniles to criminal courts, including a description of court organization and statutory and procedural information on the role and function of various interrelated agencies.

HISTORY OF STATUTES RELATING TO JURISDICTION AND TRANSFER

The first act in Washington designating separate laws applying to minors was passed in 1905. This act applied to children under 17 years of age who had not been inmates of any state institution, the training school for boys, the industrial school for girls, or other state institutions for the care and correction of delinquent children.[1] An amendment in 1909 raised the statute's applicability to 18 years of age and deleted the exception of inmates of juvenile institutions. It covered a broad range of status offenses, as well as criminal offenses.[2]

In 1913, the statute became the basis of the current juvenile code. It established the categories of "dependent" and "delinquent" children. It provided for the appointment of probation counselors to make investigations. The court was given jurisdiction over a wide range of children, including children whose activities, if carried out by an adult, would not be labeled criminal, i.e., those "in danger of being brought up to lead an idle, dissolute, or immoral life."[3]

The first decline statute was also enacted in 1913. It required that any child under 18 years of age who was arrested with or without a warrant was to be taken directly before the designated juvenile court and, if inadvertently taken to another court, immediately transferred to the correct court.[4] This act stipulated that juvenile court cases required notice and investigation like all other cases. If it appeared, upon investigation, that the child had been arrested on a charge of having committed a crime, the individual could be turned over, at the court's discretion, to the proper authorities for trial under the criminal code.

Amendments in 1921 provided that counties where there was no resident superior court, could establish court commissions. The commissions were provided with concurrent power, authority, and jurisdiction in juvenile matters.[5] This act empowered court commissioners to commit to training institutions, industrial schools, or group homes, or to refer cases to judges for hearings. The powers of court commissioners were enlarged in 1929, when their authority was upgraded to the same level in juvenile matters as judges, but one provision provided for judicial review upon motion by any interested party.[6] One interesting addition occurred in 1937, when amendments to the code specified that juvenile cases were to be heard without a jury.[7]

In 1961, a variety of status offenses were dropped from the delinquency category, but some classifications were added as delinquent acts, including individuals who violated federal law or laws of other states and whose cases are referred to juvenile courts by other jurisdictions.[8]

By the late 1960s, widespread dissatisfaction with the juvenile code was evident. Various public interest groups began to propose competing legislation. Beginning in 1969 with the Uniform Juvenile Court Act, a series of unsuccessful

bills were introduced. The failure of all these bills to pass both houses is demonstrative of the polarity of the lobbying forces involved.

Faced with a continuing stalemate to undertake a comprehensive revision of the juvenile code, the legislature began to make limited reform, especially for status offenses. S.B. 3116, which passed both houses in 1976, provided that "incorrigible" children--those found by the court to be "beyond the control and power" of parents--could not be sent to state institutions, beginning July 1, 1977.[9]

No other major changes were made until the Juvenile Justice Act was passed in 1977. The code granted juvenile court exclusive original jurisdiction over all proceedings involving the Interstate Compact on Placement of Juveniles; dependent children; termination of parent and child relationships; approving or disapproving alternative residential placements; involuntary civil commitments; and juveniles alleged to have committed offenses or violations. Exceptions were provided where cases were transferred to criminal courts; where the period of limitations applicable to adult prosecutions had expired; and traffic, fish, boating, or game offenses committed by youth, 16 years of age or older, which would, if committed by an adult, be tried in a court of limited jurisdiction. The code also provided that the juvenile court remain a division of the superior court.[10]

A number of other changes also occurred at this time. The then-current declination procedure, originally passed in 1913, was repealed and the current decline provisions were adopted. Unlike the earlier procedure, the 1977 amendments provided for two slightly different procedures:

- Permissive hearings that allow the prosecutor, respondent, or the court on its own motion, to file a motion to transfer jurisdiction. There are no age or offense restrictions; and

- Presumptive hearings where respondents, 16 or 17 years old, are charged with serious offenses.

A decline hearing is required, unless waived by the court or parties and their counsel.

The definitions section in the new code defined other age-related jurisdictional terms.

- "Juvenile, youth, and child" mean any individual under the age of 18 who has not been previously transferred to an adult court, or who is over the age of 18 but remains under the court's jurisdiction because of a previous court order providing for such.

- "Juvenile offender" is a person found to have committed an offense by the juvenile court.[11]

The 1977 amendments also provided that the age of the juvenile at the time of offense would determine the proper court jurisdiction. In so doing, the

legislature "overruled" the state Supreme Court, which had frequently held that the date of trial was the critical point at which to determine age.

No provision had existed until 1975 which specified to what age the juvenile court retained jurisdiction. The 1977 act reiterated that in no case may a juvenile offender be committed by the juvenile court to the Department of Social and Health Services (DSHS) for placement in a juvenile corrections institution beyond the 21st birthday. Further conditions for retaining jurisdiction beyond a juvenile's 18th birthday were stipulated. Jurisdiction could only be maintained if one of the following conditions applied:

- The juvenile court had committed the juvenile offender to DSHS for a sentence within the disposition standard for the offense, and the sentence extends beyond the 18th birthday;
- The juvenile court had committed the juvenile offender to DSHS for a sentence outside the disposition standard for the offense, beyond the 18th birthday and the court extends jurisdiction "for cause";
- Proceedings seeking adjudication were pending beyond the 18th birthday, and the court, by written order, extends jurisdiction.

In no case may the juvenile court extend jurisdiction beyond 21 years of age. The juvenile court has no jurisdiction over any offenses alleged to have been committed by a person over 18 years of age at the time of the offense. This provision enables a juvenile offender over 18 years of age to be tried in juvenile court, provided that the offense alleged was committed prior to his or her 18th birthday.[12]

Case Law Summary

Since 1950, the Supreme Court in Washington has heard a number of declination cases, particularly after the U.S. Supreme Court Kent decision in 1966. The Washington Supreme Court had long held that the offender's age as of the date of trial (and not the date of the commission of the offense, arrest, or indictment or information was filed) was the controlling factor. Decisions bearing on this issue are State v. Ring, Lesperance v. Superior Court for Island County, State v. Kramer, State v. Brewster, Sweet v. Porter, and State v. Binford.[13] Thus, Washington was among the minority of jurisdictions so holding, until the 1977 change previously cited, making age at time of the commission of the offense the controlling factor.

In 1966, the court held, in Dillenburg v. Maxwell (I), that due process required a hearing and a juvenile court order declining jurisdiction, prior to a criminal prosecution of a 16 year old.[14] The defendant originally was not given a hearing and was transferred on an order which had been signed by a probation officer at the direction of the juvenile court judge. The supreme court relied

on Kent v. United States and remanded the case back to juvenile court. On rehearing in Dillenburg v. Maxwell (II), the Washington Supreme Court held that a new trial was not mandated for every such violation of due process; rather, a de novo declination hearing should be held to determine the propriety of the original transfer.[15] In accordance with the aforementioned decisions concerning the determination of the accused's age, the court held that the de novo hearing should be held in juvenile court if the accused was, at the time, under 18 years of age.

The rule in Dillenburg (I) was applied in Sheppard v. Rhay, where the reversible error was that the defendant had been transferred without a hearing.[16] Thus, Dillenburg (I) applied to cases involving no hearing, as well as to faulty hearings. In the same year, the court held that hearsay evidence was admissible in a de novo hearing. (See also, Williams v. Rhay and State v. Piche.)[17] The court also held, in Piche, that evidence which was not presented in the original declination hearing may be considered in the de novo hearing.

In State v. Williams, the court held that a 219-day delay from the court order until the de novo hearing was held was not prejudicial.[18] Further, the court held that if substantial evidence supports a de novo finding, it will not be overturned on appeal. Finally, the "determinative factors" set forth in Kent were adopted as representing substantial evidence.[19] For other discussion of what constitutes sufficient evidence upon which to decline jurisdiction, see State v. McLaughlin.[20]

Statements made prior to declination may be admitted in subsequent criminal proceedings, according to the court's ruling in State v. Prater.[21] The declination statute withstood a challenge on constitutional grounds in In Re Harbert, and the court, in McRae v. State, refused to apply the doctrine of Dillenburg (I) retroactively because the defendant had waited 11 years to raise the issue.[22] Further, the court held, in In Re Welfare of Lewis and Matter of Welfare of Lewis, that a transfer order is appealable, although the appeal is discretionary (probable error must be demonstrated) and not a matter of right.[23]

The Washington Supreme Court has also held that a minor is not incapable of waiving his or her right to counsel in criminal court. The court stated, in State v. Angevine and Snyder v. Maxwell, that the issue of whether the waiver of his or her right to counsel was valid was a question of fact.[24]

Juvenile Court Dispositional Options

The 1977 Juvenile Justice Act required the Department of Social and Health Services to develop disposition standards for all offenses committed by juveniles. The sentencing standards devised are two-dimensional, considering not only the nature of the offense, but offender characteristics as well. To develop these standards, DSHS established a point system for calculating standard ranges. Under the point system, the juvenile's immediate offense, criminal

history, and age are given a point value. These are totaled, and the standard range chart is then consulted to arrive at the disposition.

If the court chooses to keep the youth in the community, various recommended options are available.

- Up to 30 days in detention.
- Up to 150 hours of community service.
- Up to $100 fine.
- Up to 12 months on community supervision.

The juvenile code establishes four categories of juvenile offenders.

- Youth who are "diverted." When the alleged offense is a misdemeanor or a gross misdemeanor and the alleged offense, in combination with the offender's criminal history, do not exceed three offenses or violations and do not include any felonies, the case will be diverted.

- "Minor or first offenders." These youth 16 years of age or younger whose current offense and criminal history do not exceed four misdemeanors, three gross misdemeanors, or one lesser felony (Classes B and C).

- "Middle offenders." These are youth who are neither serious offenders nor minor or first offenders.

- "Serious offenders." These are youth 15 years of age or older who have committed or attempted to commit an offense which if committed by an adult would be a Class A felony or who have committed an offense on a specific list of Class B felonies, i.e., statutory rape in the first and second degrees. A Class C felony can never be defined as a serious offense.

DSHS provides possible dispositions for the various types of offenders.

Type of Offender	Possible Disposition
Diverted Youth	Diversion
Minor or First Offender	1. Community supervision (probation) 2. Manifest injustice
Middle Offender	1. Confinement for the range specified in the standards, if the range begins at more than 30 days 2. Community supervision

Type of Offender	Possible Disposition
	3. Community supervision, plus a specific number of days of confinement not exceeding 30 days
	4. Manifest injustice
Serious Offender	1. A sentence according to DSHS sentence standards
	2. Manifest injustice

The DSHS sentence standards have to be followed only when a juvenile is sentenced to a state institution. The standard sentences are based on the seriousness of the offense, the juvenile's age, and past criminal history. A point system is used for calculating the sentences. The points are totaled and the standard sentence chart is used to determine the sentence. While juvenile court judges may deviate from the point system when ordering confinement in DSHS facilities, they may only disgard them upon a written finding that following the guidelines would result in a "manifest injustice" to either the juvenile or the public.[25]

All offenders (minor, middle, and serious) must be ordered to pay restitution in addition to the disposition, except when the juvenile cannot afford to pay or when the term of confinement of over 15 weeks is ordered. Disposition standards provide that in all cases where a youth is sentenced to a term of confinement in excess of 30 days, an additional period of parole not to exceed 18 months may be imposed. "Accountability" has become a basic concept of the juvenile justice system. Even divertees are held responsible for the restitution and community service ordered, even though the order is based on a voluntary agreement. If the agreement is violated, the juvenile may be referred for prosecution. Juveniles have the right to voluntarily request prosecution in lieu of diversion, or the diversion unit may insist upon prosecution instead of diversion. After the statutorily mandated periods of time have been served and the other conditions have been satisfied, juvenile records may be ordered sealed or destroyed.

The Juvenile Rehabilitation Division works with juveniles between the ages of eight and 18 who are committed to it by the county juvenile courts. After trial in juvenile court, the individual is sent to a reception and diagnostic center to be evaluated for the appropriate placement. Once assigned to a juvenile facility, the juvenile may not be administratively transferred to an adult institution, except when commitment is from superior court after declination.

Thus, "accountability" is the watchword of the mandatory sentencing processes in Washington. In practice, of course, the rigidity of the system is mediated by policy and prosecutory discretion, the possibility of diversion, and the authority of the juvenile court to find manifest injustice.

PROCEDURES FOR TRYING YOUTH AS ADULTS IN 1978

Court Organization

The highest courts of general jurisdiction in Washington are the Superior Courts. The superior courts are the state's only trial courts of record. They have unlimited jurisdiction to hear all matters, civil and criminal. The superior courts are organized into 28 districts, with one or more judges serving in each of the state's 39 counties. In less densely populated areas, a superior court may serve more than one county, with judges traveling to county seats as frequently as is required by the volume and nature of cases. Superior court judges may delegate certain responsibilities prescribed by state law to a maximum of three court commissioners in each county. Court commissioners are permitted to hear uncontested domestic cases, and juvenile, probate, dependency, and neglect cases.

Although there are district and municipal courts of limited jurisdiction, for traffic violations, misdemeanors, and civil actions in matters of controversy under $1,000, superior courts have exclusive jurisdiction in probate and domestic relations matters. Appeals from courts of limited jurisdiction are heard de novo in superior courts. The courts of limited jurisdiction, including district, municipal, justice of the peace, and police courts, handle the largest volume of cases in the state. Criminal jurisdiction of district and justice of the peace courts is limited to and concurrent with that of superior courts in cases involving misdemeanors and gross misdemeanors. District courts have some shared jurisdiction with superior courts for preliminary hearings in felony cases.

Since 1961, with the passage of the Justice Court Act, all counties, except one, have eliminated the justice of the peace "fee system" and have established justice court districts served by district courts.

Juvenile courts are ancilliary to the superior courts and are referred to as the juvenile departments of the superior courts. In some districts, superior court judges may hear cases in both criminal and juvenile departments. Hereafter, these juvenile departments will be discussed as juvenile courts.

The district, municipal, justice of the peace, and police courts (courts with limited jurisdiction) have jurisdiction over all traffic violations (including juvenile traffic since July 1978) and misdemeanors.

An overview of Washington's court jurisdiction over juveniles appears below.

WASHINGTON: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Superior Courts (Juvenile Departments)	Superior Courts (felonies)	District Courts Municipal Courts
	District Courts (misdemeanors, gross misdemeanors)	Justice of the Peace Courts Police Courts

Transfer Process

The initial age of juvenile court jurisdiction in Washington extends to 18 years of age. There are two legal mechanisms by which juveniles may be referred to adult courts--judicial waiver (declination) and excluded offenses.

Judicial Waiver

Judicial waivers, or declinations, are more complex procedures in Washington than they are in many other states. The Juvenile Justice Act of 1977 provides for two types of declines, permissive and presumptive.[26] Decline of juvenile jurisdiction is permitted for any juvenile of any age charged with any offense. The request to decline jurisdiction may come from the prosecutor, the court upon its own motion, or the juvenile or his counsel. Unless waived by the court or the parties, a hearing will determine the question of declination.

Second, a decline hearing is required, unless waived by the court, parties and their counsel, when a 16 or 17 year old is charged with a Class A felony, or an attempt to commit a Class A felony; or a 17 year old is charged with assault in the second degree, extortion in the first degree, indecent liberties, kidnapping in the second degree, rape in the second degree, or robbery in the second degree (all Class B felonies). If the decline hearing is waived, the case will be filed in the adult courts.

Juvenile courts, following either type of decline hearing, may order that the case be transferred for adult criminal prosecution, provided that the declination "would be in the best interest of the juvenile and the public." Whether the juvenile is transferred for criminal prosecution or retained in juvenile court, the court is required to set forth in writing its findings and the relevant facts and opinions produced at the declination hearing.

All cases against youth who have previously been transferred for prosecution to adult court are thereafter automatically prosecuted in adult courts, with no provision for return to juvenile jurisdiction. This includes misdemeanors and ordinance violations, as well as felonies. "Once declined, always declined" or, "once an adult, always an adult," is the rule.

Excluded Offenses

As of July 1, 1978, routine traffic violations by youth 16 years of age or older are excluded from juvenile court jurisdiction; prior to that date they were heard in juvenile courts. Effective March 29, 1979, traffic, fishing, boating, or game violations committed by youth 16 or older, which would be tried in a court of limited jurisdiction if committed by adults, are tried in the appropriate adult courts. However, offenses arising out of incidents prosecuted in juvenile courts remain under juvenile jurisdiction.

Role of the Prosecutor

The county prosecuting attorneys are party to all juvenile court proceedings involving juvenile offenders or alleged juvenile offenders. They may, after giving appropriate notice to the juvenile court, decline to represent the state, except in felony cases or unless requested by the court on an individual basis.

Upon receipt of a complaint, the prosecutor screens it to determine if the case is within the jurisdiction of the juvenile court and if there is probable cause that the juvenile committed the offense. When the case is legally sufficient, the prosecutor has the option to file or divert the case, depending on the current offense, age of the juvenile, and the seriousness and recency of the juvenile's criminal history. Since the enactment of the Juvenile Justice Act of 1977, the discretion of the prosecutor in the filing of charges with the juvenile court is limited. Some cases must be filed with the court, others must be diverted from prosecution to community programs, and others the prosecutor has the option of filing or diverting.

A decline hearing is mandatory in some instances, but the prosecutor, the court, or the youth may move for a decline hearing in other cases as well. With the introduction of a greater role for prosecutors, the Juvenile Justice Act of 1977 has caused juvenile court proceedings to become more adversarial and has established the role of the prosecutor as a key participant in the process.

Defender Services

Juveniles are entitled, under the 1977 Juvenile Justice Act, to the right to be represented by counsel at all critical stages of the proceedings, the right to appointment of counsel and necessary experts, and the right to subpoena necessary witnesses and records.

Counsel is mandatorily provided, when not privately retained. Public defenders organizations perform this function in some areas; in others, counsel may be individually appointed or may be furnished by legal service groups who contract, after a bidding process, to provide defense services. The method for providing defender services varies widely in various parts of the state.

Confinement Practices

Detention Practices

Adult defendants in Washington are normally held, when detained awaiting trial, in adult jails and lockups, operated by local governments. Once juvenile courts decline jurisdiction, youth become adult defendants and are transferred for adult criminal prosecution. If youth are held for hearings in adult courts, they will likely be held in adult facilities. However, no one under 16 years of age may be confined with adults in jails in Washington.

When awaiting hearings in juvenile courts, juveniles may not be held in detention unless one or more or the following conditions exist:

- A complaint has been filed and there is probable cause that the juvenile has committed an offense or violated the terms of a dispositional or release order.
- The juvenile will likely fail to appear for further proceedings.
- The juvenile is a threat to himself.
- The juvenile is a threat to the community safety.
- The juvenile will intimidate witnesses or otherwise interfere with the administration of justice.
- The juvenile has committed a crime while another case was pending.
- The juvenile is a fugitive from justice.

- The juvenile's parole has been suspended or modified.
- The juvenile is a material witness.

Juveniles scheduled for a declination hearing may be held in detention pending that hearing, or may be released on conditional bail, if bond is set by the court and posted by the juvenile.

Dispositional Alternatives

If found guilty in criminal court, the declined youth may be placed on probation, at the discretion of the court, or may be sentenced to incarceration under the sentencing provisions of the criminal code. Felonies are divided into A, B, and C types; sentences of various lengths of incarceration are determined by a grid similar to the juvenile sentencing matrix.

Sentences are determined by an offense score based on number of separate events; i.e., use of a weapon, type of crime, physical injury suffered by a victim, plus an offender score reflecting prior juvenile and adult convictions, prior adult incarcerations over 30 days, and current legal status (bond, probation, parole, etc.).

Anyone convicted of a felony by a superior court judge is committed to an institution under the DSHS Adult Corrections Division. In the case of youth under 16, they may not be housed with adult felons. They are, instead, administratively transferred to juvenile institutions by order of the secretary of the Department of Social and Health Services. They remain in juvenile facilities until age 16, at which time they may either be moved to adult institutions or may remain housed in juvenile facilities until 18. The decision rests with the Juvenile Rehabilitation Division of DSHS.

Most young first offenders go to Firland Correctional Center in North Seattle (a 49-bed facility with vocational training as its major focus) or to Indian Ridge (a 76-bed forestry camp with remedial education as its focus). Occasionally, young offenders with serious records go to the state penitentiary or reformatory.

STATE DATA SUMMARY

Initial information on frequencies of juveniles transferred to adult courts due to declinations in 1978 were obtained from juvenile court personnel. Phase I data, i.e., frequency information, were readily obtained by telephone in all 39 counties. Phase II data, including age, sex, race, offense, and disposition, became somewhat more difficult to obtain from the more populous counties where records were not kept of the desired data in easily retrievable forms. Therefore, it became necessary, in some cases, to make on-site visits and manually

count the case data or to forego the retrieval of some information. No traffic information is reflected separately, as is the case in other state profiles, although some juvenile traffic cases may have been declined prior to July 1, 1978. Because of the large amount of missing Phase II data on offenses, reflected in Table 48-4, it cannot be determined if some declinations occurred due to traffic violations.

Table 48-1 is a display of information regarding youth tried as adults in 1978 in Washington under the declination provision. Due to the availability of data, youth in adult courts due to the "once declined, always declined" provision are reported in a separate column of the table.

In reviewing this table, it should be recalled that there were at least three categories of youth declined during 1978: youth charged with felonies; youth declined for traffic, alcohol, and other public order offenses; and youth who had been declined previously and were sent directly to criminal court because of the "once declined, always declined" provision. Therefore, caution is advised when reviewing the data, for this and other reasons. Many counties in Washington during the first half of 1978 used judicial waiver to primarily refer to adult court juveniles charged with traffic and possession-of-alcohol offenses; Clark County could only provide data for six months of 1978, and several counties were able to only provide partial or estimated data.

Table 48-1 shows that a total of 684 youth were subject to prosecution in adult courts in 1978, 14 of whom were in adult courts due to the "once declined, always declined" provision. In total, based on the estimated juvenile population ages eight through 17, a rate of 11.01 youth per 10,000 were in Washington adult courts in 1978.

Some final comments should be made with respect to the King County (Seattle) statistics. The county prosecutor's office reported 176 declines in 1978, a descrepancy of six cases from the court data. Therefore, there may be a small undercount in that county. What is most striking, however, is the use of declines after the passage of the new excluded traffic offense law. King County reported 55 declines for the entire year of 1979.

TABLE 48-1. WASHINGTON: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver			
		Cases (Total)	Judicial Declines	Automatic Transfers	Rate[b]
Adams	2,637	41	41	0	155.480
Asotin	2,662	0	0	0	0.000
Benton	15,614	8	4	4	5.124
Chelan	6,725	5 est	5 est	*	7.435
Clallam	6,879	35	33	2	50.879
Clark	29,321	42[c]	42[c]	*	14.324
Columbia	685	0	0	*	0.000
Cowlitz	13,356	12	12	0	8.985
Douglas	3,460	4 est	4 est	0	11.561
Ferry	829	0	0	0	0.000
Franklin	5,199	4 est	4 est	*	7.694
Garfield	482	0	0	0	0.000
Grant	8,830	11	9	2	12.458
Grays Harbor	11,048	12 est	12	0 est	10.862
Island	5,496	7	7	0	12.737
Jefferson	1,821	2	2	0	10.983
King	193,695	170[d]	170[d]	*	8.777
Kitsap	19,257	6 est	4	2 est	3.116
Kittitas	3,462	1 est	1	0 est	2.889
Klickitat	2,519	3	3	0	11.909
Lewis	8,708	42	42	*	48.232
Lincoln	1,611	0	0	0	0.000
Mason	3,806	0 est	0	0 est	0.000
Okanogan	5,202	13	13	0	24.990
Pacific	2,463	0	0	0	0.000
Pend Oreille	1,310	3 est	3 est	0	22.901
Pierce	72,775	44	44	*	6.046
San Juan	775	1	1	0	12.903
Skagit	8,778	79 est	79 est	0 est	89.998
Skamania	1,157	3 est	2 est	1 est	25.929
Snohomish	51,019	18	18	0	3.528
Spokane	52,222	70 est	70 est	*	13.404
Stevens	4,535	4	4	0	8.820
Thurston	16,861	4 est	4 est	*	2.372
Wahkiakum	684	0	0	0	0.000

TABLE 48-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver			
		Cases (Total)	Judicial Declines	Automatic Transfers	Rate[b]
Walla Walla	6,433	0 est	0	*	0.000
Whatcom	15,114	15 est	12 est	3 est	9.925
Whitman	4,572	0	0	0	0.000
Yakima	29,231	25 est	25 est	*	8.553
Total	621,233	684 est	670 est	14 est	11.010

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

c. These data are based on six months of 1978 due to Clark County's record keeping system.

d. The King County prosecutor reported 176 declines in 1978 during the course of the case study. The juvenile courts provided the data presented in this and subsequent tables.

Age, sex, race, offense, judgment, and sentencing data were obtained from the four most populous Washington counties and from counties reporting five or more declinations during 1978. Table 48-2 reflects the interrelationship between the 39 counties in the state in which frequency data were collected (Phase I) and those counties where more detailed information was obtained (Phase II). The 19 Phase II counties represent 89 percent of the state's estimated juvenile population and the information reported represents 94 percent of the youth tried in adult courts in 1978.

TABLE 48-2. WASHINGTON: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	621,233	39	684[b]
Selected for Phase II Investigation	555,907	19	644[c]
Percentage of State Selected for Phase II Investigation	89%	49%	94%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Includes 14 automatic transfers statewide.

c. Includes only two of the 13 automatic transfers reported by Phase II counties.

A demographic breakdown of youth judicially declined is reflected in Table 48-3. Where age data were available, 87 percent (413) were 17 years old, and 13 percent (60) were 16. Of available data, males represented 94 percent (425). White youth represented 88 percent (407) and minority youth 12 percent (57) of available race data. Data from Clallam County includes two declines that were automatically transferred. Data from Benton, Grant, Kitsap, and Whatcom Counties represented only judicial declines, not automatic transfers.

TABLE 48-3. WASHINGTON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	Unknown	White	Minority	Unknown
Adams	41	0	10	31	0	0	37	4	0	23	18	0
Benton	4[a]	0	0	4	0	0	4	0	0	4	0	0
Chelan	5	0	0	5	0	0	5 est	0	0	5	0	0
Clallam	35[b]	0	2	33	0	0	33 est	2	0	35	0	0
Clark	42	0	11	31	0	0	39	3	0	39	3	0
Cowlitz	12	0	0	12	0	0	11	1	0	12	0	0
Grant	9[a]	0	0	9	0	0	7	2	0	*	*	9
Grays Harbor	12	0	3 est	9 est	0	0	11 est	*	1	12	0	0
Island	7	0	1	6	0	0	6	1	0	7	0	0
King	170	*	11	52	*	107	53	10	107	50	13	107
Kitsap	4[a]	*	*	*	*	4 est	*	*	4 est	*	*	4 est
Lewis	42	*	*	*	*	42	*	*	42	*	*	42
Okanogan	13	0	0	13	0	0	13	0	0	9 est	4 est	0
Pierce	44	0	7	37	0	0	42	2	0	34	10	0
Skagit	79	0	4 est	75 est	0	0	63	*	16	77 est	2 est	0
Snohomish	18	*	*	*	*	18	*	*	18	*	*	18
Spokane	70	0	6 est	64 est	0	0	68 est	*	2	68 est	2 est	0
Whatcom	12	0	1 est	11 est	0	0 est	10 est	*	2 est	11 est	1 est	0 est
Yakima	25	0	4 est	21 est	0	0	23 est	*	2	21 est	4 est	0
State Phase II Totals	644	0	60	413	0	171	425	25	194	407	57	180

* denotes Not Available.

a. Includes only judicial declines. Does not include automatic transfers.

b. Includes two automatic transfers, as well as judicial declines.

Charges for youth tried in adult courts appear in Table 48-4. Among the known offenses, property offenses, which included larceny, auto theft, trespassing, receiving stolen property, fraud, and burglary, represented 49 percent (214) of the known total. Public order offenses, which included drug and liquor violations, disorderly conduct, gambling, and vandalism, represented 35 percent (152). Eleven percent (49) were personal offenses (murder, manslaughter, rape, robbery, assault and battery, aggravated assault, and other personal offenses). The 21 cases listed in the "other general" category were all traffic offenses.

Based on the known data reflected in Table 48-4, youth from three of the most populated counties (Pierce, Snohomish, and Spokane) are much more likely to have been charged with robbery, burglary (nearly half of all charges), and other property offenses (larceny, auto theft, etc.), than their counterparts in less populated counties. On the other hand, youth residing in less populated counties were more likely to be declined as a result of public order charges (nearly half of waived charges) than the youth residing in larger counties.

TABLE 48-4. WASHINGTON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

		Offenses[a]										
County	Total Waivers	Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Un-known
Adams	41	0	0	0	4	0	0	5	3	10	19	0
Benton	4[b]	1	0	0	1	0	0	2	0	0	0	0
Chelan	5	0	0	0	0	0	0	5	0	0	0	0
Clallam	35[c]	*	*	*	*	*	*	*	*	32	*	3
Clark	42	2	0	6	1	0	1	18	8	6	0	0
Cowlitz	12	0	0	1 est	0	0	0	8 est	2	1	0	0
Grant	9[b]	*	*	*	*	*	*	*	*	*	*	9
Grays Harbor	12	2	0	0	0	0	0	7 est	0	3	0	0
Island	7	0	0	1	0	0	0	1	0	5	0	0
King	170	1	1	4	3	4	1	8	13	26	2	107
Kitsap	4[b]	*	*	*	*	*	*	*	*	*	*	4
Lewis	42	*	*	*	*	*	*	*	*	*	*	42
Okanogan	13	0	0	0	1 est	0	0	10 est	2 est	0	0	0
Pierce	44	0	0	3 est	0	0	0	37 est	4 est	0	0	0
Skagit	79	0	0	0	0	0	0	5	5 est	69	0	0
Snohomish	18	*	*	*	*	*	*	*	*	*	*	18
Spokane	70	0	0	7 est	0	0	0	42 est	21 est	0	0	0
Whatcom	12[b]	0	0	2 est	2 est	0	0	6 est	2 est	0	0	0
Yakima	25	*	*	*	*	*	*	*	*	*	*	25
State Phase II Totals	644	6	1	24	12	4	2	154	60	152	21	208

* denotes Not Available.

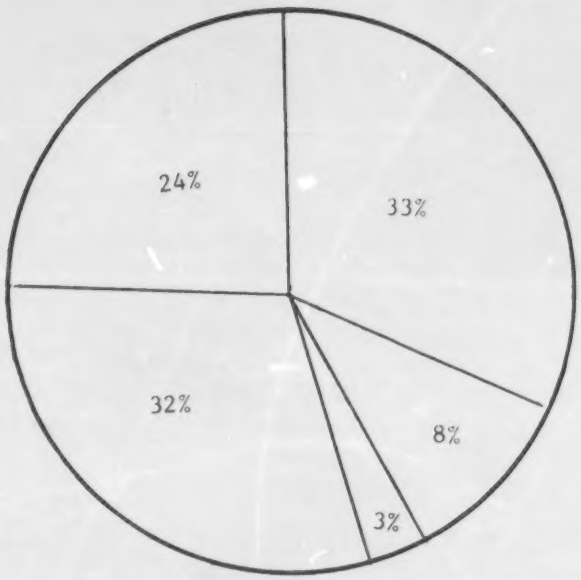
a. Only most serious offense per individual listed.

b. Includes only judicial declines. Does not include automatic transfers.

c. Includes two automatic transfers, as well as judicial declines.

Figure 48-1 is a graphic display of the breakdown of offenses by major category, including the percentage of unknown offenses. The figure gives a more graphic view, particularly relevant to understanding the incidence of declinations in connection with crimes against persons.

FIGURE 48-1. WASHINGTON: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]

Personal	8%
Property	33%
Public Order	24%
Other General	3%
Unknown	32%

N= 644

a. Violent offenses (murder, manslaughter, rape, robbery, and aggravated assault) represent five percent of all offenses in the Phase II counties.

Another way to view the Phase II offense data on Table 48-4 is presented on Table 48-5. In this table, the types of offenses are aggregated according to population of the counties having jurisdiction of the cases. It can be seen that counties having juvenile populations over 50,000 (King, Pierce, Snohomish, and Spokane) tend to waive many more youth for property offenses and many fewer youth for public order offenses than do the small counties. What is perhaps more remarkable is the fact that, in 1978, over 53 percent of the Phase II declinations occurred in counties with less than 50,000 juveniles. The Phase II counties having fewer than 50,000 juveniles are Adams, Benton, Chelan, Clallam, Clark, Cowlitz, Grant, Grays Harbor, Island, Kitsap, Lewis, Okanogan, Skagit, Whatcom, and Yakima.

TABLE 48-5. WASHINGTON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY SIZE AND TYPE OF OFFENSE) IN 1978

County Category	Total Waivers	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Un-known
Counties with Juvenile Population Over 50,000	302	1	1	14 est	3	4	1	87 est	38 est	26	2	125
Percentage	100.9[b]	.3	.3	5	1	1	.3	29	13	9	1	41
Counties with Juvenile Population Under 50,000	342	5	0	10 est	9 est	0	1	67 est	22 est	126	19	83
Percentage	101.3[b]	2	0	3	3	0	.3	20	6	37	6	24

a. Only most serious offense per individual listed.

b. Categories not totaling 100 percent due to rounding-off.

Judgments are reflected in Table 48-6. Based upon instances in which judgments were known, 369 youth (95 percent) were found guilty. While the "unknown" category is high, the evidence does suggest that the overwhelming number of youth are convicted.

TABLE 48-6. WASHINGTON: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENT) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other[a]	Unknown
Adams	41	0	0	41	0	0
Benton	4[b]	0	0	4	0	0
Chelan	5	0	0	5 est	0	0
Clallam	35[c]	0	2	31	2	0
Clark	42	*	1	37	*	4
Cowlitz	12	0	0	12	0	0
Grant	9[b]	*	*	*	*	9
Grays Harbor	12	0	0	12	0	0
Island	7	0	0	7	0	0
King	170	2	15	46	*	107
Kitsap	4[b]	*	*	*	*	4
Lewis	42	*	*	*	*	42
Okanogan	13	0	0	13 est	0	0
Pierce	44	*	*	*	*	44
Skagit	79	0	0	79	0	0
Snohomish	18	*	*	*	*	18
Spokane	70	0	0	70 est	0	0
Whatcom	12[b]	0	0	12 est	0	0
Yakima	25	*	*	*	*	25
State Phase II Total	644	2	18	369	2	253

* denotes Not Available.

a. Pending or held open.

b. Includes only judicial declines. Does not include automatic transfers.

c. Includes two automatic transfers, as well as judicial declines.

The sentences imposed on youth found guilty are shown in Table 48-7. Of the 369 known cases in which guilty sentences were imposed, 282 youth (77 percent) received either fines or probation. Seventy-seven youth (21 percent) were ordered to some type of confinement. In six of these cases, youth were sent to DSHS and were transferred to juvenile corrections facilities.

TABLE 48-7. WASHINGTON: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

		Sentence Types					
County	Total Convictions	Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities[a]	Other
Adams	41	0	41	0	0	0	0
Benton	4[b]	0	0	0	4	0	0
Chelan	5	0	5	0	0	0	0
Clallam	31[c]	18 est	10 est	0	3 est	0	0
Clark	37	3	16	*	6	6	6
Cowlitz	12	0	0	12	0	0	0
Grays Harbor	12	0	0	10	2	0	0
Island	7	3 est	4 est	0	0	0	0
King	46	18	1	16	7	*	4
Okanogan	13	3 est	10 est	0	0	0	0
Skagit	79	69 est	5 est	5 est	0	0	0
Spokane	70	0	66 est	4 est	0	0	0
Whatcom	12[b]	0	10 est	2 est	0	0	0
State Phase II Total	369	114	168	49	22	6	10

* denotes Not Available.

a. The Secretary of the Department of Social and Health Services may order transfer to a juvenile facility.

b. Includes only judicial declines. Does not include automatic transfers.

c. May include automatic transfers as well as judicial declines.

The urban and rural breakdown in Table 48-8 of sentences received reveals very slight percentage differences in the use of confinement for youth convicted in adult courts, although there is an increased reliance upon the use of jails in the two urban counties, particularly King County. Even greater variance can be seen between the two groups of counties in the use of fines and probation, where rural counties reported a far greater percentage of fines and urban counties reported greater use of probation.

TABLE 48-8. WASHINGTON: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS IN PHASE II COUNTIES (BY COUNTY SIZE AND SENTENCE TYPE) IN 1978

County Category	Total Convictions	Sentence Types: Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Counties with Juvenile Populations Over 50,000	116	18	67	20	7	0	4
Percentage	100	16	58	17	6	0	3
Counties with Juvenile Populations Under 50,000	253	96	101	29	15	6	6
Percentage	100	38	40	12	6	2	2

The lengths of confinement of youth convicted and sentenced in adult courts is reflected in Table 48-9. This represents a breakdown of the columns on Table 48-7 entitled Jail, State Adult Corrections Facilities, and State Juvenile Corrections Facilities. As can be seen, of the known cases where youth were convicted and sentenced to incarceration, 74 percent received maximum terms of one year or less. Only four youth were sentenced to maximum terms of over ten years. None received indeterminate, life, or death sentences.

TABLE 48-9. WASHINGTON: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death	Unknown
Benton	4[a]	0	0	0	3	1	0	0	0	0
Clallam	3[b]	0	0	0	3	0	0	0	0	0
Clark	12	*	*	*	*	*	*	*	*	12
Cowlitz	12	12	0	0	0	0	0	0	0	0
Grays Harbor	12	10	2	0	0	0	0	0	0	0
King	23	15	0	1	4	3	0	0	0	0
Skagit	5	5 est	0	0	0	0	0	0	0	0
Spokane	4	4 est	0	0	0	0	0	0	0	0
Whatcom	2[a]	2 est	0	0	0	0	0	0	0	
State Phase II Total	77	48	2	1	10	4	0	0	0	12

* denotes Not Available.

a. Includes only judicial declines. Does not include automatic transfers.

b. May include automatic transfers as well as judicial declines.

By way of summary, Table 48-10 is presented to assist the reader in better understanding the falloff in the frequencies listed in the preceding tables.

TABLE 48-10. WASHINGTON: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 48-1)	684
Total Referrals Selected for Phase II (Table 48-2)	644
Total Referrals Resulting in Convictions (Table 48-5)	369
Total Convictions Resulting in Sentences of Confinement (Table 48-6)	77

In summary, a significant number (684) of youth were tried in adult courts in Washington after decline hearings in 1978. Most were 17 years old, male and white. Forty-nine percent were declined for property offenses among the known Phase II cases, 35 percent for public order offenses and 11 percent for personal offenses. Ninety-five percent of the known Phase II cases were found guilty and of those found guilty, over 75 percent received community sentences of fines or probation. For those convicted and sentenced to confinement in Phase II counties, three quarters of the known cases received sentences of one year or less. Thirteen youth received maximum sentences of at least one year with four youth being sentenced to maximum terms of over ten years.

RESULTS OF ON-SITE INTERVIEWS

In April, 1980, Academy staff visited Washington in order to conduct on-site interviews with key people in Benton, Clark, King, Richland and Thurston Counties. Interviews were arranged with judges and juvenile court personnel, county prosecutors and public defenders, state officials, a police officer and a member of the University of Washington's social work department.

A standard interview format was used, in which interviewees were asked their opinions about the relative impacts of declination procedures on the

system, the public, and the juveniles involved. Other questions probed for deficiencies in the current system and proposals for change.

Perceived Effects on the Court System of Trying Youth as Adults

Consistently, respondents in Washington indicated that declination and transfer removed those young offenders who were the least likely to benefit from the options available to juvenile courts. Many of the youth declined in Washington in 1978 were referred because "they had adopted an adult lifestyle, and the juvenile services would not change their way of life." By removing them, most interviewees believed that more concentration of resources was permitted for those who remained. They described the effect as positive, saying that it prevented the juvenile system from being "loaded" with failures and allowed more services to go to younger, less sophisticated offenders presumed to be more amenable to treatment. Yet, some persons viewed declines as an admission of failure of the juvenile system.

It should be noted that a large number of declines are for misdemeanors, such as possession or consumption of alcohol and drugs. The juvenile court is likely to decline such youth, knowing that they will simply be fined in the adult system. In King County, this philosophy was also the reason for declining many teen-age prostitutes who had adopted emancipated lifestyles.

The image of the juvenile court as a dispenser of justice was also reported as an advantage for decline of serious juvenile offenders. "It appears that the court is doing something with the serious youths," said one public defender, "even though it's quite possible that the juvenile might not be treated as severely in the adult system." The number of youth declined for personal offenses was very low in 1978 (49 cases). Other advantages mentioned included:

- Decreased costs to juvenile court.
- Fewer trials.
- Reduced time needed for adjudication hearings.

The most frequent disadvantage mentioned was the loss of these youth to the juvenile system, since dispositions of cases declined are outside the purview of juvenile court. Declines were viewed as "giving up."

No advantages to adult courts regarding declines were mentioned. The only disadvantage mentioned was the increased case load and, therefore, increased time and cost necessary to process these cases. Declines simply result in more trials in superior courts after being preliminarily handled in juvenile courts.

Perceived Effects on the Corrections System of Trying Youth As Adults

Since declines frequently remove juveniles likely to be placed in detention or committed to state corrections institutions from the juvenile system, several advantages were reported for juvenile detention and corrections services by a few of the respondents.

- A reduction in the overall population of state juvenile institutions and local detention facilities.
- Removal of hardened youth who are likely to be more difficult to work with and are apt to exert an unfavorable influence on other youth.
- Reduction in cost, thus allowing resources to be directed toward fewer youth who have potential for successful rehabilitation.

Disadvantages mentioned were primarily for adult corrections. The most frequent concern expressed was a lack of appropriate programs and facilities for youth in adult facilities, particularly jails. Since all of the youth in the survey were 16 and 17 years of age (who could legally be commingled with older offenders), this was seen as a very serious problem. In reality, very few juveniles were sentenced to adult corrections facilities in 1978. The survey data revealed that 38 youth were sentenced to adult corrections in that year. The Department of Social and Health Services found there were 87 juvenile commitments to adult corrections during 1979--68 17 year olds, 18 16 year olds, and one 14 year old. The 14 year old was initially placed in a juvenile facility. At 16, he could be transferred to an adult facility. If the 38 youth estimated from the Academy's survey reflect an accurate picture for 1978, there has been more than a 100 percent increase in the adult commitments of youth between 1978 and 1979. This could have a detrimental effect on prison overcrowding in a few years. In any event, the presence of younger offenders in adult facilities presents problems in administration, regardless of number. Several other disadvantages were reported.

- More potential for physical and sexual abuse of juveniles.
- Increased costs of providing programs.
- Unfamiliarity of adult corrections with juveniles.

Perceived Effects on Offenders of Being Tried As Adults

Most respondents answered at length on the impact of declines on the juveniles themselves. The reaction, overall, was that juveniles generally did not

fare as well in the adult system as they might have fared if juvenile jurisdiction had been retained. They offered a variety of reasons:

- A large number of interviewees stated that for such youth, "hard time" and longer sentences were a higher probability, if found guilty. A public defender said, "I never recommend a decline for my clients." Yet, the Academy survey data suggest the contrary. The high percentage of fines and probation indicates, in contrast to the perceived frequency of "hard time," that few juveniles actually spend any time in the adult corrections system. The Department of Social and Health Services reported, in verifying data for this report, that on the day data were gathered, 161 youth were under the jurisdiction of the Adult Corrections Division. This total included 56 on probation, 70 on parole, and 26 actually housed in corrections institutions. It clearly suggests that knowledgeable people in Washington perceive adult court sentences meted out to declined youth to be much harsher than seems to be the case.

- The threat of physical abuse in adult institutions.

- The acquisition of permanent criminal records.

- Less standardization in adult sentencing results in uneven sentencing.

Some exceptions were stressed, however, particularly in the case of public order offenses. It was generally believed that youth would receive lighter sentences or deferred or suspended sentences for most misdemeanors. First offenses, for example, might draw short jail terms or fines in adult courts. In juvenile court, the same offenses could result in strict and rigorously enforced probation for fairly long periods of time. In addition, several respondents stated that, assuming all other factors are controlled, youth will do more time as a result of juvenile court dispositions, for several reasons.

- The point system in juvenile court, with its presumptive sentencing, specifies sentence length. In adult court, judges have a great deal of discretion to defer, suspend, or otherwise avoid confinement, particularly with young first-time offenders.

- Criminal court sentences are largely symbolic, with offenders actually serving lesser periods (good behavior, community work release, parole board minimum sentences). The juvenile court sentences are more certain because of the standard range of dispositions.

- Sentences vary from crime to crime. For example, juveniles charged with homicide will do more time in the adult system than if retained by juvenile court. Youth charged with auto theft, on the other hand, will have longer periods of confinement if adjudicated by juvenile courts. Sentences generally would be less severe in the criminal courts, unless a weapon is involved.

- While admissible in criminal court sentencing hearings, juvenile records of prior offenses are generally disregarded so that declined youth are sentenced as first offenders.

Other advantages were mentioned for youth who are tried as adults:

- Availability of bail (although permitted in juvenile court, it is seldom used).
- Jury trial.
- Less time before trial, in some cases.
- Youth could be viewed more sympathetically in adult courts due to their younger ages.
- The traumatic effect of the adult system could be beneficial in deterring further criminal behavior.
- There is generally, "less hassle" with the adult system than with the juvenile system.

Perceived Effects on the Public of Trying Youth As Adults

Even though the options for fines or probation are frequently used for youth that are declined, the perception of interviewees was that the public felt safer when serious offenders are transferred to criminal courts. The possibility of harsher sentences which might be imposed contribute to the belief that juveniles are being held more accountable for their crimes than juvenile courts seem willing or able to impose. In addition, there are fewer escapes from adult institutions.

Several negative effects were also noted, specifically increased costs associated with the adjudication process, increased costs of incarceration in adult institutions, and the potential long-term negative effects on juveniles, due to incarceration with hardened adult criminals.

There was no discernable consensus among respondents on how much weight should be given to the juvenile's own desires regarding transfer to adult court. Opinions were fairly evenly spread among the respondents.

What does seem to be the case is that the power of the prosecutors have been greatly strengthened. By providing prosecutors with discretion for filing a decline motion in any juvenile case and mandating declination hearings in some cases, the role of the "people's attorney" has been enlarged in juvenile proceedings.

Perceptions of Factors to Be Considered in the Referral of Youth to Adult Courts

Respondents were asked what factors were the most important in considering the decision to try youth in adult courts. Strong agreement was evident among a majority of respondents regarding the most critical criteria. Most respondents clearly favored the Kent criteria in general, particularly the factors of age, past record, and severity of offense.

Other factors mentioned by a smaller, though significant, proportion of respondents were the juvenile's level of criminal sophistication, lack of potential rehabilitation in the juvenile system, personal maturity, and level of emancipation. Almost no one mentioned probation reports, psychiatric evaluations, or social background factors as having any necessary bearing. To an extent even greater than with other stages of the juvenle justice process, the decline hearings were viewed as essentially legal rather than social decisions. Very significant, in a negative sense, was the nearly complete absence of favorable comments concerning parens patriae or medical-model theories, in connection with the decline and transfer decisions.

Perceptions of Needed Changes in the Referral of Youth to Adult Courts

While the revamped juvenile code of 1977 has brought about many fundamental and procedural changes in the processing of juvenile offenders, it has also engendered almost universal dissatisfaction on one or more points among those interviewed. Only four respondents indicated that no changes were needed.

Changes in declination procedures that were proposed included:

- Providing juries for decline hearings, enacting mandatory criteria of proof, and making the decision to decline less subject to the opinion of the prosecutor or the judge;
- Abolishing the right of the court to decline except through motions filed by juveniles themselves; and
- Instituting presumptive declines for all Class A felonies, rather than requiring hearings. This would place the burden of moving for hearings and proving amenability upon the juveniles.

Several interviewees stated that declines would not be a major issue in the state in the near future. The real issue at the heart of the decline provision is not who should or should not be declined. Rather, it is the "integrity of the juvenile court." Can the people have confidence that justice will be

administered in juvenile courts? Likely expressions will be legislation regarding juvenile court jurisdiction, discretion, and general authority.

The issue of greatest interest and controversy for juvenile justice in the state is the future of the determinate sentencing structure. With virtually every respondent holding strong views for change, the potential for intensive debate on this issue is clear. From the perspective of this study, it appears that, to avoid entanglement in the rather involved juvenile system, many misdemeanant youth are being declined. The expected sentence of a fine appears preferable to the standard range of dispositions in juvenile courts. This view was especially prevalent in King County. The danger involved may be that these youth, many of whom requested trial in adult courts, have given up their juvenile treatment for any subsequent violations of law.

Suggestions ranged from "scrap the entire system and return to the old plan," to relatively minor revisions in the weighting of specific offenses. The major objection with the sentencing matrix is precisely the reason it was established. It removes a great deal of discretion in making dispositions for all juvenile delinquents from juvenile court judges. Little discretion remains, except for judges to invoke "manifest injustice" or for the prosecutors to adjust the charges at the onset of the process.

Most of the interviewees stated that the currect prohibition against group home community placement for delinquent youth should be eliminated. Currently, to place a delinquent in a group home, a request for alternative residential placement must be filed, declaring the youth to be a dependent minor. Under these circumstances, a judge may make this type of placement, but it then loses the delinquency focus that brought the juvenile to the attention of the court in the first place.

One respondent indicated that the establishment, by the Juvenile Rehabilitation Division, of a highly secure facility (for one to two years confinement) would substantially reduce the need for those declines which are made to obtain long-term secure confinement currently available only through adult corrections. Other recommendations made were:

- The enactment of a youthful offender statute for 16 to 25 year olds.
- Providing for more prosecutorial involvement in cases which are initially diverted from juvenile courts.
- Recreating authority to place certain status offenders in detention, especially runaways.
- Increasing the state's responsibility to provide treatment for sex offenders.
- Providing more education and exchange of information about declinations to judges. "Most judges are innocent of any knowledge of the sociological implications of declinations," said one interviewee.

- Imposing maximum sentences for those who violate parole or who run from a diversion program.

- Tightening sentencing rules to permit confinement for some Class C felonies, e.g., auto theft, without utilizing manifest injustice.

SUMMARY AND CONCLUSIONS

H.B. 371 (the 1977 juvenile code revision) was supposed to make the juvenile justice system more accountable. For some, it meant that juveniles would be more consistently charged and sentenced. For others, it apparently meant that less offenders would do time. This ambiguity probably contributed to its passage. At the time of the interviews, more youth were being diverted from the court, fewer were declined, and fewer were being committed to juvenile corrections facilities.

Despite these results, almost everybody generally approved the new approach but disliked something about the current juvenile justice code. The most universal dislike was with the presumptive sentencing model. There was 100 percent dissatisfaction among judges, court personnel, prosecutors, and public defenders. In fact, it is difficult to say who did like it. The mandatory sentencing model remains the juvenile justice issue to greatest controversy in the state.

"Decline" is viewed as being an important issue, primarily because it relates to the overall issue of credibility of the juvenile court. By establishing presumptive sentences and mandatory declines, the discretion and, indeed, the jurisdiction of the juvenile courts have been greatly reduced. The question is sometimes asked: "If minor offenders are diverted, serious offenders are transferred to criminal court, and declines may be requested for all other juvenile offenders, who is left?" Further, if dispositions are prescribed for offenses and types of offenders, what needs to be done but to determine culpability in contested cases?

The remaining manner for exercising juvenile court discretion in dispositions is the use of manifest injustice. This study did not undertake the extent to which manifest injustice was invoked, but it does suggest an area for further study.

"Decline," "manifest injustice," "accountability," "presumptive sentencing model," are all terms distinctive to the Washington juvenile justice system. We found a state struggling to establish a system, at once unique, modern, and fair to all parties involved but, in the process, managing to please no one entirely. Many changes are inevitable because of widespread displeasure with the current system. The next few years will no doubt bring additional juvenile code revisions.

FOOTNOTES

1. 1905 Washington Laws, Chapter 18, Section 1.
2. 1909 Washington Laws, Chapter 190, Section 1.
3. Acts of 1913 Washington Laws, Chapter 160, Sections 1 and 2.
4. Ibid., Section 12
5. 1921 Washington Laws, Chapter 135, Section 1.
6. 1929 Washington Laws, Chapter 176, Section 1.
7. 1937 Washington Laws, Chapter 65, Section 1.
8. 1961 Washington Laws, Chapter 302, Section 1.
9. Laws of 1975-1976, 2nd Executive Session, Chapter 71, Section 1.
10. Revised Code of Washington, Title 13, Section 13.04.030.
11. Revised Code of Washington, Title 13, Section 13.04.020.
12. Revised Code of Washington, Title 13, Section 13.300.
13. State v. Ring, 339 P.2d 461 (1959); Lesperance v. Superior Court for Island County, 434 P.2d 602 (1967); State v. Kramer, 435 P.2d 970 (1967); State v. Brewster, 449 P.2d 685 (1969); Sweet v. Porter, 454 P.2d 219 (1969); State v. Binford, 582 P.2d 863 (1978).
14. Dillenburg v. Maxwell (I), 413 P.2d 940 (1966).
15. Dillenburg v. Maxwell (II), 422 P.2d 783 (1967), cert. denied, 386 U.S. 998, (1967).
16. Sheppard v. Rhay, 440 P.2d 422 (1968).
17. Williams v. Rhay, 440 P.2d 427 (1968); State v. Piche, 442 P.2d 632 (1968).
18. State v. Williams, 453 P.2d 418 (1969).
19. Kent v. United States, 383 U.S. 541, (1966).
20. State v. McLaughlin, 437 P.2d 902 (1968).
21. State v. Prater, 463 P.2d 640 (1970).
22. In re Harbert, 538 P.2d 1212 (1975); McRae v. State, 559 P.2d 563 (1977).
23. In re Welfare of Lewis, 564 P.2d 328 (1977); Matter of Welfare of Lewis, 569 P.2d 1158 (1977).
24. State v. Angevine, 385 P.2d 329 (1963); Synder v. Maxwell 401 P.2d 349 (1965).
25. It should be noted that "manifest injustice" is a judicial disposition applicable to cases where the disposition under the DSHS sentence standards is thought to be either too lenient or too severe. Recent informal contacts with officials in Washington indicate that manifest injustice is now being used to impose more severe sentences. An example of how it is being used in this manner is when a judge has knowledge that a youth has had several prior delinquent charges, but has been able to plea bargain to lesser charges (thus scoring fewer points on the sentence standards). It is reported that the knowledge of the previous charges are being used to give more restrictive sentences.
26. Revised Code of Washington, Sections 13.04.011 and 13.40.110

WYOMING PROFILE

ACKNOWLEDGMENTS

The Academy extends its appreciation to the Wyoming Women's Center and their Hands Up project for their assistance with data collection in Wyoming. In particular, gratitude is owed to Denice Wheeler for her help in coordinating and supervising the organization's effort. In addition, the Academy thanks the many other state and local officials who provided additional information.

METHODOLOGY

The data presented in this profile were gathered by telephone interviews conducted by members of the Wyoming Women's Center. Data were collected from juvenile courts, district courts, and prosecutor's offices. Data on liquor and traffic offenses were gathered from municipal courts, although data were generally unavailable.

Data on two types of mechanisms were collected: judicial waivers from juvenile to criminal courts and concurrent jurisdiction where the youth were originally charged in adult courts. Frequencies (Phase I data) were gathered for all 23 counties in Wyoming for both the judicial waiver and concurrent jurisdiction mechanisms. Age, sex, race, offense, and sentence data (Phase II) were requested from the two largest counties (the most populous ten percent of the counties in the state) and the counties that had five or more youth tried as adults under either legal mechanism. Unfortunately, no Phase II data on judicial waivers were available from any source and Phase II data on concurrent jurisdiction cases heard in district courts were available from only one county. Frequency data were also sought from every county for municipal ordinance and minor offense violations including traffic offenses. However, only three counties were able to provide this information.

COURT ORGANIZATION

In Wyoming, district courts are the highest courts of general jurisdiction. The state's 23 counties are divided into 14 districts with a district court judge presiding in each county.

Municipal ordinance violations are heard by municipal courts. Justice courts have jurisdiction over public offenses below the grade of felony or those

offenses involving maximum penalties of $100 fine or six months imprisonment. (Higher penalties are permitted for fish and game law violations).

The juvenile divisions of district courts have jurisdiction over juvenile proceedings. The remainder of this profile will refer to these juvenile divisions of district courts as juvenile courts.

The jurisdiction of the juvenile courts is not exclusive in Wyoming. Juvenile courts share concurrent jurisdiction over municipal ordinance violations with municipal courts. The adult divisions of district courts, and justice courts share jurisdiction with the juvenile courts over all other appropriate offenses. The prosecuting attorney generally determines the forum in Wyoming.

An overview of Wyoming's courts by their jurisdiction over juveniles appears below.

WYOMING: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
Juvenile Divisions of District Courts	Adult Divisions of District Courts	Juvenile Division of District Courts
		Municipal Courts
		Justice Courts

a. Minor juvenile offenses (municipal ordinance, alcohol, and traffic violations) may be processed in either adult or juvenile courts, due to concurrent jurisdiction.

TRANSFER PROCESS

In Wyoming, the initial age of juvenile court jurisdiction extends to 19 years of age.[1] Wyoming is the only state in the nation to have a maximum age of initial juvenile court jurisdiction of over 18 years for all juveniles within the state.

There are two legal mechanisms by which juveniles are tried in adult courts in Wyoming--judicial waiver, and concurrent jurisdiction.

Judicial Waiver

All complaints alleging misconduct of a juvenile in Wyoming must be referred to the prosecuting attorney who determine the appropriate action to be taken and the appropriate court in which to prosecute the action.[2] If the petition alleging delinquency is filed in juvenile courts, the juvenile courts may choose to waive jurisdiction and transfer the case to adult courts.[3] There are no statutory limits on age or alleged offense of the juveniles subject to judicial waiver. The juvenile courts will waive the case if it finds at the transfer hearing that there is probable cause that the juvenile committed the act, that the juvenile is not subject to commitment as mentally ill or mentally retarded, and that juvenile court procedures are not appropriate under the circumstances of the case. If the case is not transferred, the judge who conducted the hearing must not, over objection of an interested party, preside at the adjudicatory hearing on the petition. If the case is transferred to a court of which the judge who conducted the transfer hearing is also the judge, this judge likewise may be disqualified from presiding at the criminal proceeding.[4] There is no provision for juveniles to request trial as adults.

Concurrent Jurisdiction

As noted above, all complaints alleging misconduct of a juvenile must be referred to the prosecuting attorney.[5] The prosecutors then select whether to pursue the action in adult or juvenile courts. However, any proceeding begun in the district court, adult division, within the concurrent jurisdiction of the juvenile courts, may, on motion of any party or on the adult courts' own motion, be transferred to the juvenile courts if the judge finds the matter more properly suited to disposition under the juvenile code.[6]

CASE LAW SUMMARY

Since 1950, only two cases dealing with waiver or concurrent jurisdiction issues have been decided by the Wyoming Supreme Court. In Mullin v. State, the Supreme Court held to be constitutional Wyoming's statutes which provide for concurrent jurisdiction over juveniles in the juvenile and adult courts with the possibility of subsequent judicial waiver from juvenile courts.[7] The appellant was one of several juveniles originally charged with grand larceny in juvenile

court. Although the appellant's codefendants were tried in juvenile court, the appellant was prosecuted in district court after the juvenile court waived jurisdiction to adult court. The statute, then in effect, provided that the juvenile court could terminate its own jurisdiction over a matter, prior to the juvenile's 21st birthday, by dismissal or assignment of the case to the district court. The appellant cited Kent v. United States in support of his position.[8] However, the Wyoming Supreme Court held that Kent was distinguishable on its facts. The supreme court further held that the legislature has the inherent power to define the jurisdictional limits of both juvenile and district courts, and the Legislature had not said that all juvenile matters must be handled in juvenile courts.

In Edwards v. State, the Wyoming Supreme Court was faced with a challenge to a statute which provided for the transfer of a juvenile from adult to juvenile court.[9] The court, citing Mullin, upheld the statute. Further, the court held that the determination to transfer was within the sound discretion of the court and that the appellant had failed to demonstrate an abuse of this discretion.

CORRECTIONS INFORMATION

The State Board of Charities and Reform is responsible for the penal institutions in Wyoming, and the Department of Probation and Parole provides a statewide system of probation and parole services for both adults and juveniles. The Wyoming State Penitentiary, the Wyoming Women's Center, and the Wyoming Honor Farm, house felons of any age tried and convicted in adult courts.

Juveniles tried in juvenile courts and sentenced to incarceration may only be held in juvenile facilities: the Wyoming Girls School housing females and the Wyoming Industrial Institute confining males.

State sources stated that youth convicted in adult courts may be sentenced to either adult or juvenile institutions at the judge's discretion. Females up to 21 years of age may be sentenced to the Wyoming Girls School and males up to 21 years of age may be sent to the Wyoming Industrial Institute, both juvenile facilities. There can be no judicial or administrative transfer between juvenile and adult facilities.[10]

STATE DATA SUMMARY

In Wyoming, there are two legal mechanisms under which youth may be tried as adults. With one minor exception, all complaints alleging misconduct of a juvenile must be referred to the prosecutors who then select whether to pursue the action in juvenile or adult courts, under the state's concurrent

jurisdiction. Minor municipal ordinance, alcohol, and traffic violations may be processed in municipal courts or may be referred to the prosecuting authority for appropriate action. Cases filed in juvenile courts are also subject to waiver from juvenile to adult court jurisdiction at the discretion of the juvenile court judges. The survey of Wyoming courts showed that in 1978 there were four youth tried as adults under judicial waiver and 15 under concurrent jurisdiction in district courts' adult division. Frequency data on lesser offenses handled in municipal and justice courts were generally not available. The following tables reflect only those youth judicially waived after hearings in juvenile courts and those youth filed on in district courts by the prosecuting attorneys.

Table 51-1 displays the total number of referrals under each of these mechanisms by county. In addition, the 1978 per capita rates for each mechanism by county is presented. Judicial waivers were reported in only two of the state's 23 counties while concurrent jurisdiction cases were reported in four counties' district courts. Seventeen of the 23 counties (74 percent) comprising 84 percent of the state's juvenile population reported no youth tried as adults in 1978 under either mechanism. These included the two largest counties (Laramie and Natrona) in the state. No county reported more than six youth tried as adults in 1978. This distribution of cases is reflected in the state's low referral rates of 0.581 and 2.179 per 10,000 juvenile population for judicial waiver and concurrent jurisdiction, respectively.

TABLE 51-1. WYOMING: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Concurrent Jurisdiction[b]	
		Cases	Rate[c]	Cases	Rate[c]
Albany	3,745	0	0.000	0	0.000
Big Horn	2,083	0	0.000	0	0.000
Campbell	2,636	0	0.000	0	0.000
Carbon	2,956	0	0.000	0	0.000
Converse	1,421	0	0.000	0	0.000
Crook	1,034	0	0.000	0	0.000
Fremont	6,490	0	0.000	0	0.000
Goshen	2,040	0	0.000	0	0.000
Hot Springs	741	0	0.000	6 est	80.972
Johnson	879	0	0.000	0	0.000
Laramie	11,888	0	0.000	0	0.000
Lincoln	2,032	0	0.000	0	0.000
Natrona	10,031	0	0.000	0	0.000
Niobrara	476	0	0.000	0	0.000

TABLE 51-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[c]	Concurrent Jurisdiction[b] Cases	Concurrent Jurisdiction[b] Rate[c]
Park	3,478	3 est	8.626	0 est	0.000
Platte	1,258	0	0.000	1 est	7.949
Sheridan	3,100	1	3.226	0	0.000
Sublette	777	0	0.000	0	0.000
Sweetwater	6,055	0	0.000	0	0.000
Teton	1,070	*	*	3 est	28.037
Uinta	1,827	0	0.000	0	0.000
Washakie	1,568	0	0.000	5 est	31.888
Weston	1,250	0	0.000	0	0.000
Total	68,835	4 est	0.581	15 est	2.179

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. These data reflect only juveniles referred to adult divisions of district courts.

c. Rate per 10,000 juveniles eight to 17 years old (1978).

Further data (that is, Phase II data) on judicial waivers were not available.

Concurrent Jurisdiction

Additional data on concurrent jurisdiction were available only from one Phase II county, Washakie, as all six concurrent jurisdiction cases in Hot Springs County were transferred to juvenile court.

Table 51-2 indicates that all five concurrent jurisdiction cases from Washakie County were white males. Data on their ages were not available.

TABLE 51-2. WYOMING: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION (BY COUNTY, AND BY AGE, SEX, AND RACE) IN 1978

County	Total Referrals	Age					Sex			Race		
		0-15	16	17	18+	Un-known	Male	Female	Un-known	White	Minority	Un-known
Hot Springs	6[a]	*	*	*	*	6	*	*	6	*	*	6
Laramie	0	0	0	0	0	0	0	0	0	0	0	0
Natrona	0	0	0	0	0	0	0	0	0	0	0	0
Washakie	5	*	*	*	*	5	5 est	0	0	5	0	0
State Phase II Total	11	0	0	0	0	11	5 est	0	6	5	0	6

* denotes Not Available.

a. All six cases were transferred to juvenile courts.

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All five youth from Washakie County were charged with robbery and all were found guilty in adult courts. In addition, all five youth were sentenced to state juvenile corrections facilities, for periods of confinement of one year or less.

Table 51-3 provides a summary of the number of cases reported in the preceding tables and narrative concerning the total referrals to adult courts under judicial waiver and concurrent jurisdiction; the number of Phase II concurrent jurisdiction cases on which data were available; and findings concerning conviction and confinement of the concurrent jurisdiction cases. Four youth were reported judicially waived in 1978, but no additional data were available on them. A total of 15 youth were reported subject to district court trial as adults under concurrent jurisdiction and 11 of these were further examined as Phase II data. Table 51-7 further indicates that five of these concurrent jurisdiction cases were convicted in adult courts and sentenced to terms of confinement.

TABLE 51-3. WYOMING: SUMMARY OF TABLES (BY LEGAL MECHA SM)

	Judicial Waiver	Concurrent Jurisdiction
Total Referrals to Adult Courts In 1978 (Table 51-1)	4	15
Total Referrals Selected for Phase II (Table 51-2)	*	11
Total Referrals Resulting In Convictions	*	5
Total Convictions Resulting In Sentences of Confinement	*	5

* denotes Not Available.

While judicial waiver and concurrent jurisdiction frequencies were available from most counties, Phase II data was retrieved for none of the waivers and 11 of the concurrent jurisdiction cases. Among the 11 youth, five were charged and convicted for robbery and were all confined. However, adult courts ordered confinement in juvenile corrections facilities for these youth for periods of one year or less. The other six Phase II concurrent jurisdiction cases were transferred to juvenile courts.

Routinely Handled Traffic Offenses

Data were only available from three Wyoming counties for the minor traffic, game, and alcohol violations as shown in the following Table 51-4. The 347 traffic and 86 alcohol cases filed in adult courts due to concurrent jurisdiction came from counties totalling 5,427 juvenile population, constituting eight percent of the state total. Notably, it is the two smaller counties which have the much larger numbers.

TABLE 51-4. WYOMING: JUVENILE REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION FOR TRAFFIC, CONSERVATION, AND ALCOHOL VIOLATIONS IN 1978 (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES)

County	Juvenile Population (Ages 8-17)[a]	Number of Traffic Violations	Number of Conservation Violations	Number of Alcohol Violations
Albany	3,745	*	*	*
Big Horn	2,083	*	*	*
Campbell	2,636	*	*	*
Carbon	2,956	*	*	*
Converse	1,421	*	*	*
Crook	1,034	*	*	*
Fremont	6,490	*	*	*
Goshen	2,040	*	*	*
Hot Springs	741	*	*	*
Johnson	879	*	*	*
Laramie	11,888	*	*	*
Lincoln	2,032	0	0	1
Natrona	10,031	*	*	*
Niobrara	476	*	*	*
Park	3,478	*	*	*
Platte	1,258	*	*	*
Sheridan	3,100	*	*	*
Sublette	777	*	*	*
Sweetwater	6,055	*	*	*
Teton	1,070	*	*	*

TABLE 51-4. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Traffic Violations	Number of Conservation Violations	Number of Alcohol Violations
Uinta	1,827	243 est	0	41
Washakie	1,568	104	0	44
Weston	1,250	**	**	**
Total	68,835	347 est	0	86

* denotes Not Available.

** denotes Not Surveyed.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

FOOTNOTES

1. Wyoming Statutes Annotated, Section 14-1-101.
2. Wyoming Statutes Annotated, Section 14-6-203(c).
3. Wyoming Statutes Annotated, Section 14-6-237.
4. Wyoming Statutes Annotated, Section 14-6-237(e).
5. Wyoming Statutes Annotated, Section 14-6-203(c).
6. Wyoming Statutes Annotated, Section 14-6-237(f).
7. Mullin v. State, 505 P.2d 305 (1973).
8. Kent v. United States, 583 U.S. 541 (1966).
9. Edwards v. State, 577 P.2d 1380 (1978).
10. Wyoming Statutes Annotated, Section 14-6-229.

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